

By Mr. VOIGT: A bill (H. R. 13062) granting a pension to Maud Monrean; to the Committee on Invalid Pensions.

Also, a bill (H. R. 13063) granting a pension to Anna Maria Craig; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

6470. By the SPEAKER (by request): Petition of J. J. Castellini, of Cincinnati, Ohio, favoring the passage of the American merchant marine bill (H. R. 12817); to the Committee on the Merchant Marine and Fisheries.

6471. By Mr. KINDRED: Petition of Cleveland A. Dunn, of New York, N. Y., relative to district offices in the Department of Commerce; to the Committee on Interstate and Foreign Commerce.

6472. By Mr. KISSEL: Petition of E. F. Warner, publisher Field and Stream, New York City, N. Y., relative to the national parks; to the Committee on the Public Lands.

6473. By Mr. LYON: Resolution of Department of Christian Social Service of the Episcopal Church, submitted by Rev. Thomas C. Darst, bishop of East Carolina, asking for emergency immigration legislation for relief of Near East refugees; to the Committee on Immigration and Naturalization.

6474. By Mr. ROSE: Petition of the Democratic Women's Organization of Cambria County, Pa., requesting Enforcement Agent Davis to separate law enforcement from politics and enforce the law impartially; to the Committee on the Judiciary.

SENATE.

TUESDAY, November 28, 1922.

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

O Lord, our God, we bless Thee that though the heaven of heavens can not contain Thee, Thou art pleased to dwell with those who are of an humble and contrite heart. Grant unto us such a disposition of mind, of will, of soul, that we may come into that happy relationship to have Thy abiding presence when undertaking responsibility, meeting the demands of duty, and asking from Thee guidance in all the pathways along which we are called to travel. Hear us, we beseech of Thee, for all who need Thy help in the great demands of the present life and engagements, and glorify Thyself in and through us. Through Christ, our Lord. Amen.

CALL OF THE ROLL.

Mr. HARRISON. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The reading clerk called the roll and the following Senators answered to their names:

Ball	George	McKinley	Sheppard
Bayard	Glass	McLean	Shortridge
Borah	Gooding	McNary	Simmons
Brandeggee	Hale	Myers	Smoot
Broussard	Harrell	Nelson	Sterling
Calder	Harris	New	Sutherland
Cameron	Harrison	Nicholson	Townsend
Capper	Heflin	Norris	Underwood
Culbertson	Jones, N. Mex.	Overman	Wadsworth
Cummins	Jones, Wash.	Page	Walsh, Mass.
Curtis	Kellogg	Pepper	Walsh, Mont.
Dial	Keyes	Phipps	Warren
Edge	Ladd	Pittman	Watson
Elkins	La Follette	Ransdell	Weller
Fletcher	Lodge	Rawson	Willis
Frelinghuysen	McKellar	Reed, Pa.	

Mr. FLETCHER. I desire to state that my colleague [Mr. TRAMMELL] is unavoidably absent. He is paired with the Senator from Rhode Island [Mr. COLT]. I will let this announcement stand for the day.

Mr. HARRISON. I wish to announce the unavoidable delay of my colleague, the senior Senator from Mississippi [Mr. WILLIAMS].

The PRESIDENT pro tempore. Sixty-three Senators have answered to their names. There is a quorum present.

THE JOURNAL.

The reading clerk proceeded to read the Journal of yesterday's proceedings.

Mr. CURTIS. I ask unanimous consent to dispense with the further reading of the Journal.

The PRESIDENT pro tempore. Is there objection?

Mr. HARRISON. Reserving the right to object for the present, I think every one will agree that we have one of the most efficient Journal clerks in the history of this body—

The PRESIDENT pro tempore. The Chair desires to observe that the question is not debatable.

Mr. HARRISON. I object, then.

The PRESIDENT pro tempore. The Secretary will read the Journal.

The reading clerk resumed the reading of the Journal, and after having read for some time,

Mr. HARRISON. There is so much confusion in the Chamber that we can not hear what the reading clerk is reading.

The PRESIDENT pro tempore. The Senate will be in order.

Mr. HARRISON. I suggest the absence of a quorum, so that Senators may hear the reading. It is very important.

Mr. CURTIS. I make the point of order that there has been no business transacted since the last call of the roll.

Mr. HEFLIN. Oh, yes, several things have happened.

The PRESIDENT pro tempore. The Secretary will proceed with the reading of the Journal, and the Senate will be in order.

Mr. CURTIS. I make the point of order that the reading of the Journal can not be interrupted by a call for a quorum.

The PRESIDENT pro tempore. The point of order is sustained, and the Secretary will proceed with the reading of the Journal.

Mr. HARRISON. I suggest that business has been transacted. Several pages of the Journal have been read, and I respectfully appeal from the decision of the Chair.

The PRESIDENT pro tempore. The Senator from Mississippi appeals from the decision of the Chair.

Mr. HARRISON. On that I ask for the yeas and nays.

The PRESIDENT pro tempore. The question is, Shall the ruling of the Chair stand as the judgment of the Senate? On which the Senator from Mississippi demands the yeas and nays.

The yeas and nays were ordered, and the reading clerk proceeded to call the roll.

Mr. BROUSSARD (when his name was called.) I have a general pair with the senior Senator from New Hampshire [Mr. MOSES]. I transfer that pair to the junior Senator from Rhode Island [Mr. GERRY], and vote "yea."

Mr. HALE (when his name was called.) I transfer my pair with the senior Senator from Tennessee [Mr. SHIELDS] to the junior Senator from Nevada [Mr. ODDIE], and vote "yea."

Mr. SUTHERLAND (when his name was called.) I transfer my general pair with the senior Senator from Arkansas [Mr. ROBINSON] to the junior Senator from New Mexico [Mr. BURSUM], and vote "yea."

Mr. WATSON (when his name was called.) I transfer my general pair with the senior Senator from Mississippi [Mr. WILLIAMS] to the junior Senator from Missouri [Mr. SPENCER], and vote "yea."

The roll call was concluded.

Mr. EDGE. I transfer my general pair with the Senator from Oklahoma [Mr. OWEN] to the Senator from California [Mr. JOHNSON], and vote "yea."

Mr. STERLING (after having voted in the affirmative.) I have a general pair with the Senator from South Carolina [Mr. SMITH]. I find that Senator has not voted. I transfer my pair with him to my colleague [Mr. NORBECK], and permit my vote to stand.

Mr. JONES of New Mexico. I transfer my general pair with the Senator from Maine [Mr. FERNALD] to the Senator from Arizona [Mr. ASHURST], and vote "yea."

Mr. GLASS. I have a general pair with the senior Senator from Vermont [Mr. DILLINGHAM]. In his absence I withhold my vote.

Mr. CURTIS. I desire to announce the following pairs:

The Senator from Rhode Island [Mr. COLT] with the Senator from Florida [Mr. TRAMMELL];

The junior Senator from Kentucky [Mr. ERNST] with the senior Senator from Kentucky [Mr. STANLEY];

The Senator from Illinois [Mr. McCORMICK] with the Senator from Wyoming [Mr. KENDRICK]; and

The Senator from North Dakota [Mr. McCUMBER] with the Senator from Utah [Mr. KING].

The result was announced—yeas 60, nays 1, as follows:

YEAS—60.

Ball	Edge	Harrison	McKellar
Borah	Elkins	Heflin	McKinley
Brandeggee	Fletcher	Jones, N. Mex.	McLean
Broussard	Frelinghuysen	Jones, Wash.	McNary
Calder	George	Kellogg	Myers
Cameron	Gooding	Keyes	Nelson
Capper	Hale	Ladd	New
Caraway	Harrell	La Follette	Nicholson
Curtis	Harris	Lodge	Norris

Page
Pepper
Phipps
Pittman
Poindexter
Ransdell

Rawson
Reed, Pa.
Sheppard
Shortridge
Simmons
Smoot

Sterling
Sutherland
Swanson
Townsend
Underwood
Wadsworth

Walsh, Mass.
Walsh, Mont.
Warren
Watson
Weller
Willis

NAYS—1.

Dial

NOT VOTING—34.

Ashurst
Bayard
Barsum
Colt
Culberson
Cummins
Dillingham
Ernst
Fernald

France
Gerry
Glass
Hitchcock
Johnson
Kendrick
King
Lenroot
McCormick

McCumber
Moses
Norbeck
Oddie
Overman
Owen
Pomerene
Reed, Mo.
Robinson

Shields
Smith
Spencer
Stanfield
Stanley
Trammell
Williams

So the ruling of the Chair was sustained as the judgment of the Senate.

The PRESIDENT pro tempore. The Secretary will proceed with the reading of the Journal of the proceedings of the last legislative session.

The reading clerk resumed the reading of the Journal of the proceedings of yesterday, and was interrupted by

Mr. HARRISON. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state the parliamentary inquiry.

Mr. HARRISON. The clerk read that the vote was recorded, but did not read the names of the Senators. Are they in the Journal?

The PRESIDENT pro tempore. They are. The Secretary will read the names of the Senators recorded for and against the proposition.

The reading clerk read the names of the Senators recorded in the affirmative and in the negative.

The reading of the Journal was resumed and concluded.

The PRESIDENT pro tempore. The question is, Shall the Journal of the proceedings of the last legislative day's session be approved?

Mr. HARRISON. Mr. President, I move to amend the Journal by inserting the names of the Senators who answered "present" on the roll calls on yesterday where they fail to appear in the Journal, but appear in the CONGRESSIONAL RECORD; and on that I ask for the yeas and nays.

The PRESIDENT pro tempore. The Senator from Mississippi moves to amend the Journal by inserting the names of the Senators who answered to the roll call three separate times. Upon that the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. WATSON. Mr. President, let us understand the motion. I did not get it.

Mr. HARRISON. I will say to the Senator from Indiana that the motion I made was this: The Journal says that so many Senators answered to their names but does not name the Senators. I am merely moving that in those instances where a certain number of Members are stated to have answered "present" but their names do not appear, the names of the Senators be inserted as they appear in the CONGRESSIONAL RECORD.

Mr. WATSON. I imagine that the motion is entirely in order but I hope it will not be adopted. It would be establishing a bad precedent.

Mr. UNDERWOOD. Mr. President, I am very much surprised to hear the distinguished Senator from Indiana say that it is establishing a bad precedent for the Senate to give publicity in the Journal of this body to what is done here. I am not going to debate the question with the Senator; but the Journal is supposed to be the written record of this body, the monument for future ages to find out what has been done, and surely Senators do not desire to camouflage the Journal by not allowing the names of those who participated in making laws to appear on the face of the Journal. So I think the motion of the Senator is entirely in order.

The PRESIDENT pro tempore. The motion is not debatable.

Mr. SWANSON. Mr. President—

Mr. LODGE. The motion is not debatable.

Mr. SWANSON. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The motion is not debatable. The yeas and nays have been ordered upon it, and the Secretary will call the roll.

The reading clerk proceeded to call the roll.

Mr. SWANSON. I suggested the absence of a quorum, Mr. President, and no Senator has answered yet.

The PRESIDENT pro tempore. The Senator from Mississippi moves that the names of the Senators answering on these several roll calls shall be inserted in the Journal.

Mr. SWANSON. And pending that I suggested the absence of a quorum.

Mr. CURTIS. Mr. President, I make the point of order that the reading of the Journal can not be interrupted by a call for a quorum.

Mr. SWANSON. It has already been read and approved.

Mr. CURTIS. It can not have been approved if there is a motion to amend it.

Mr. UNDERWOOD. Mr. President, if the Chair will hear me a moment. Of course we know perfectly well what the issue is before the Senate—that there is a bill that it is threatened to take up, the consideration of which some of us are resisting; but in doing that I do not think we should violate the rules on this side or on the side of those who are in favor of taking up the bill. I think the Chair was eminently right a while ago when he held that the reading of the Journal could not be interrupted; but the Journal is the record of the legislative action of this body, and it must speak the truth. I think almost universally it does speak the truth, but it may not at times; and when it does not speak the truth it is perfectly proper for any Senator to move to correct it so that it shall speak the truth, and that is a matter which is open to the consideration of this body in the usual way.

Mr. CURTIS. Mr. President—

Mr. UNDERWOOD. Just one moment. A motion is made to amend the Journal. That motion the Chair has held in order. Before the motion was put the Senator from Virginia [Mr. SWANSON] suggested the absence of a quorum for the purpose of letting absent Senators appear to vote on this motion. That is entirely consistent with the ordinary procedure of the Senate.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Chair is entirely agreed with the Senator from Alabama. The Chair did not hear the Senator from Virginia make the point of no quorum. The Secretary will call the roll upon the point of no quorum.

Mr. HARRISON. Mr. President, will the Senator from Virginia withhold that point of no quorum until I modify my amendment?

Mr. JONES of Washington and Mr. SMOOT. Regular order!

The PRESIDENT pro tempore. The Secretary will call the roll to determine the presence of a quorum.

The roll was called, and the following Senators answered to their names:

Ball	George	McNary	Shortridge
Bayard	Glass	Myers	Simmons
Borah	Hale	Nelson	Smoot
Brandeggee	Harrell	New	Sterling
Broussard	Harris	Nicholson	Sutherland
Calder	Harrison	Norris	Swanson
Cameron	Heflin	Overman	Townsend
Capper	Jones, N. Mex.	Page	Underwood
Caraway	Jones, Wash.	Pepper	Wadsworth
Culberson	Kellogg	Phipps	Walsh, Mass.
Cummins	Keyes	Pittman	Walsh, Mont.
Curtis	Ladd	Poindexter	Warren
Dial	La Follette	Pomerene	Watson
Edge	Lodge	Ransdell	Weller
Elkins	McCumber	Rawson	Willis
Fletcher	McKellar	Reed, Pa.	
Frelinghuysen	McLean	Sheppard	

The PRESIDENT pro tempore. Sixty-six Senators have answered to their names. There is a quorum present. The question is upon agreeing to the motion made by the Senator from Mississippi.

Mr. HARRISON. Mr. President, I desire to modify my motion to the extent of moving that the first roll call of yesterday showing Senators present be inserted in the Journal at the proper place. It is on page 180 of the CONGRESSIONAL RECORD.

Mr. OVERMAN. Mr. President, I call attention to Rule IV, in which it is stated that every vote shall be recorded in the minutes, and I ask for the correction of the Journal.

The PRESIDENT pro tempore. The votes are always recorded and have been read.

Mr. OVERMAN. The votes have not been read, as I understand it.

The PRESIDENT pro tempore. The votes have been read. Responses upon the call for a quorum are now under consideration and have not been read and are not in the Journal.

Mr. OVERMAN. I make the point of order that they should be set out in the Journal.

The PRESIDENT pro tempore. The Senator from Mississippi has moved to amend the Journal, and the question is upon the motion.

Mr. UNDERWOOD. Mr. President, before the motion is voted on I would like to say a word. I do not care to go into a general debate of the question, but the Chair intimated a

while ago that a vote to amend the Journal is not debatable, and I wish to insist that it is debatable. I think the rule of the Senate clearly states that a motion to amend the Journal is privileged, and there is no rule or precedent to indicate that it is not debatable.

Such motions have been debated in the past, and it must be manifest to the Chair that such a motion is debatable, when the Chair considers that courts rely, in determining the action of the Senate, on the Journal, and you can not go behind the Journal in the courts in determining the action of the Senate. If a legislative mistake has been made in the Journal of necessity it can be amended by the Senate before it has gone too far, and I can not see how it is possible to intelligently correct a mistake that is made unless the proponent of the motion has an opportunity to state wherein a mistake has taken place, and wherein he desires to have the Journal amended; and that is debate.

I have no desire to debate the motion of the Senator from Mississippi, but I insist that it is subject to debate.

The PRESIDENT pro tempore. The Chair has not ruled that it is not debatable.

Mr. LODGE. I ask that rule 3, relating to the Journal, be read.

The PRESIDENT pro tempore. The Secretary will read rule 3.

The ASSISTANT SECRETARY. Rule 3, on pages 6 and 7 of the Senate Manual, reads as follows:

The Presiding Officer having taken the chair, and a quorum being present, the Journal of the preceding day shall be read, and any mistake made in the entries corrected. The reading of the Journal shall not be suspended unless by unanimous consent; and when any motion shall be made to amend or correct the same, it shall be deemed a privileged question and proceeded with until disposed of.

Mr. UNDERWOOD. Mr. President, while the Secretary was reading the rule my attention was called to the Precedents, starting on page 443, away back in the early history of the Senate, where it is shown, on page after page, that motions to expunge, and to insert a message of the President in the Journal, and to correct the Journal were all questions that were debated, so far as an amendment to the Journal is concerned.

The PRESIDENT pro tempore. Will the Senator from Alabama permit the Chair to observe that he has not ruled that the question is not debatable?

Mr. UNDERWOOD. I take it from what the Chair has intimated that he probably will rule that it is debatable, when the time comes, and I shall not occupy the time of the Senate any further.

The PRESIDENT pro tempore. The Chair is of the opinion that the question is debatable.

Mr. UNDERWOOD. I did not want it in doubt.

The PRESIDENT pro tempore. The question is upon the motion of the Senator from Mississippi.

Mr. HARRISON. I would like to have the last motion I made stated by the Secretary. I do not want the Senate to become confused about the important question before it.

The PRESIDENT pro tempore. The Secretary will state the motion.

The ASSISTANT SECRETARY. The Senator from Mississippi moves that the journal clerk be instructed to insert in the Journal the names of the Senators who responded on the first roll call of the Senate on yesterday.

Mr. HARRISON. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.

Mr. GLASS (when his name was called). I transfer my general pair with the senior Senator from Vermont [Mr. DILLINGHAM] to the senior Senator from Nebraska [Mr. HITCHCOCK] and vote "yea."

Mr. JONES of New Mexico (when his name was called). I transfer my general pair with the Senator from Maine [Mr. FERNALD] to the Senator from Arizona [Mr. ASHURST] and vote "yea."

Mr. McCUMBER (when his name was called). Transferring my general pair with the junior Senator from Utah [Mr. KING] to the senior Senator from Maryland [Mr. FRANCE], I vote "nay."

Mr. STERLING (when his name was called). Making the same announcement as to my pair and its transfer as on the last vote, I vote "nay."

Mr. SUTHERLAND (when his name was called). Making the same announcement as on the previous vote, I vote "nay."

Mr. WATSON (when his name was called). Making the same announcement as before, I vote "nay."

The roll call was concluded.

Mr. EDGE. I desire to make the same announcement as to my pair and its transfer as on the previous vote and vote "yea."

Mr. HALE. Making the same announcement as before, I vote "yea."

Mr. CURTIS. I desire to announce the following general pairs:

The Senator from Rhode Island [Mr. COLT] with the Senator from Florida [Mr. TRAMMELL];

The junior Senator from Kentucky [Mr. ERNST] with the senior Senator from Kentucky [Mr. STANLEY]; and

The Senator from Illinois [Mr. McCORMICK] with the Senator from Wyoming [Mr. KENDRICK].

The result was announced—yeas 52, nays 9, as follows:

YEAS—52.

Bayard	Gooding	McLean	Rawson
Brandeggee	Hale	McNary	Reed, Mo.
Calder	Harrell	Myers	Reed, Pa.
Capper	Harris	New	Sheppard
Caraway	Harrison	Nicholson	Simmons
Culberson	Heflin	Overman	Smoot
Curtis	Jones, N. Mex.	Page	Swanson
Dial	Jones, Wash.	Pepper	Townsend
Edge	Keyes	Phipps	Underwood
Elkins	Ladd	Pittman	Walsh, Mass.
Fletcher	La Follette	Poinexter	Walsh, Mont.
George	Lodge	Pomerene	Warren
Glass	McKellar	Ransdell	Weller

NAYS—9.

Frelinghuysen	Norris	Sterling	Watson
Kellogg	Shortridge	Sutherland	Willis
McCumber			

NOT VOTING—34.

Ashurst	Ernst	McCormick	Smith
Ball	Fernald	McKinley	Spencer
Borah	France	Moses	Stanfield
Broussard	Gerry	Nelson	Stanley
Bursum	Hitchcock	Norbeck	Trammell
Cameron	Johnson	Oldie	Wadsworth
Colt	Kendrick	Owen	Williams
Cummins	King	Robinson	
Dillingham	Lenroot	Shields	

So Mr. HARRISON's motion to amend the Journal was agreed to.

Mr. UNDERWOOD. I move that the Senate do now adjourn, and on that motion I demand the yeas and nays.

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.

Mr. EDGE (when his name was called). Making the same announcement as to the transfer of my pair, I vote "nay."

Mr. GLASS (when his name was called). I transfer my general pair with the senior Senator from Vermont [Mr. DILLINGHAM] to the senior Senator from Nebraska [Mr. HITCHCOCK], and vote "yea."

Mr. HALE (when his name was called). Making the same announcement as before, I vote "nay."

Mr. McCUMBER (when his name was called). Transferring my pair as on the previous vote, I vote "nay."

Mr. SUTHERLAND (when his name was called). Making the same announcement as before, I vote "nay."

Mr. WATSON (when his name was called). Making the same announcement as before, I vote "nay."

The roll call was concluded.

Mr. KELLOGG. Has the senior Senator from North Carolina [Mr. SIMMONS] voted?

The VICE PRESIDENT. That Senator has not voted.

Mr. KELLOGG. I have a general pair with that Senator. In his absence I withhold my vote.

Mr. STERLING. Making the same transfer as on the last vote, I vote "nay."

Mr. CURTIS. I wish to announce the following general pairs:

The Senator from Illinois [Mr. McCORMICK] with the Senator from Wyoming [Mr. KENDRICK];

The Senator from Rhode Island [Mr. COLT] with the Senator from Florida [Mr. TRAMMELL]; and

The junior Senator from Kentucky [Mr. ERNST] with the senior Senator from Kentucky [Mr. STANLEY].

The result was announced—yeas 19, nays 41, as follows:

YEAS—19.

Bayard	George	McKellar	Reed, Mo.
Caraway	Glass	Overman	Sheppard
Culberson	Harris	Pittman	Swanson
Dial	Harrison	Pomerene	Underwood
Fletcher	Heflin	Ransdell	

NAYS—41.

Ball	Harrell	Nicholson	Townsend
Brandeggee	Jones, Wash.	Norris	Wadsworth
Calder	Keyes	Pepper	Walsh, Mass.
Capper	Ladd	Phipps	Walsh, Mont.
Cummins	La Follette	Poinexter	Warren
Curtis	Lodge	Rawson	Watson
Edge	McCumber	Reed, Pa.	Weller
Elkins	McLean	Shortridge	Willis
Frelinghuysen	McNary	Smoot	
Gooding	Nelson	Sterling	
Hale	New	Sutherland	

NOT VOTING—35.

Ashurst	France	McCormick	Shields
Borah	Gerry	McKinley	Simmons
Broussard	Hitchcock	Moses	Smith
Bursum	Johnson	Myers	Spencer
Cameron	Jones, N. Mex.	Norbeck	Stanfield
Colt	Kellogg	Oddie	Stanley
Dillingham	Kendrick	Owen	Trammell
Ernst	King	Page	Williams
Fernald	Lenroot	Robinson	

So the Senate refused to adjourn.

Mr. HARRISON. Mr. President, I ask for the yeas and nays on my motion.

Mr. President, on page 291 of the CONGRESSIONAL RECORD there appears the names of the Senators who responded on the second roll call on yesterday when the suggestion of no quorum was made. I move to amend the Journal by inserting at the proper place the names of the Senators who answered present at that time, as they appear on page 291 of the CONGRESSIONAL RECORD.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Mississippi.

The yeas and nays were ordered.

Mr. HEFLIN. Mr. President, so many touching incidents have been referred to in the Senate to-day by my good friend from Mississippi [Mr. HARRISON], involving the able and eloquent Senator from Indiana [Mr. WARSON], that I feel it my duty at this time to read excerpts from the Washington Herald of to-day, November 28, regarding the new proposed movement in the Senate of the Old Guard to capture the Progressives. It suggests the old story of "Come into my parlor, said the spider to the fly."

Old Guard fights to win farm vote. Decides to outdo all blocs in showing friendliness for rural interests. To call G. O. P. Senators.

Well, we called several of them home on the 7th of November.

LODGE and several colleagues meet and plan legislation against profiteers.

How startling and amusing! The Old Guard of the Republican Party planning legislation against profiteers! Mr. President, would anybody ever have thought that the recent drubbing that we administered to the Republican Party would have made converts so early—that they would be calling conferences this soon after the election to plan legislation to put the profiteer out of business?

Why, I recall when a group of profiteers came here and knocked at the door of the Senate and demanded, according to preelection promises that had been made to them, that the excess-profits tax be taken off of them to the extent of \$450,000,000.

I recall that, Mr. President, and these profiteers went their way rejoicing, smiling, and looking back over their shoulders, and waving affectionate farewells to the Senator from Massachusetts [Mr. LODGE] and the Senator from Indiana [Mr. WARSON], and others of the Old Guard group. Four hundred and fifty million dollars, nearly half a billion dollars, that they permitted these profiteers to keep out of the Public Treasury for two years. Twice \$450,000,000—\$900,000,000—lacking only \$100,000,000 of being a billion! The profiteers have got that money and gone; and now, after the storm is over and we have weeded out a good many on the other side, the leader of the Old Guard sounds his bugle horn and calls a conference, and the Senator from Indiana claps his hands for joy and says: "We are going to out-Herod Herod, and we are going to dismiss the farm bloc or take it over and put it out of business."

Well, I have rendered service in the farm bloc. A few Democrats over here and a few Republicans from the West got their forces together and put over legislation that the Old Guard tried to defeat, and would have defeated but for this combination of votes in the Senate between the Democrats over here and Republicans from the West. Now the Old Guard lion and the progressive lamb, we are told, are going to lie down together. If they do, when they get up the lamb will be inside the lion. [Laughter.]

Mr. President, when I read this it touches me very deeply. Lend me your ears, Senators, while I read:

Leaders of the Senate Old Guard yesterday resolved upon a bold stroke to head off the farm bloc and get on friendly terms with the farmer vote.

Meeting in Senator LODGE's office, they decided that no bloc in the Senate will be permitted to exhibit greater friendliness for farming interests than will be shown by the old guard itself.

Senators, that is really sufficiently touching to cause tears. It would cause tears amongst the farmers if they thought they were really going to be turned over to the tender mercies of the Old Guard. When I see the Old Guard coming up and offering their services now to take over the progressive Republicans and to have intrusted to them legislation that we propose to

put through for the benefit of the American farmer, the American merchant, and the country banker, I think of *Aesop's* fable of the kite and the pigeon.

You know, the kite is a bird of prey and looks very much like a pigeon; and the kite offered his good offices to the pigeons. He said to them, "There are depredations committed on you from time to time, and I want you to make me your king, and I will protect you from all these other fowls, these cruel birds of prey." So the unsuspecting pigeons elected the kite as their king, and they had a magnificent barn loft in which they spent their evenings and roosted, and the kite was their king, and they would fly out each morning, sometimes, some of them in a considerable hurry. They felt fears they dare not express. They would come back in the evening and they discovered feathers, bones, pigeons' heads, and feet on the floor of the barn loft and the pigeons had a conference of their own when the kite was not present and they resolved:

Whereas the kite has been elected our king; and
Whereas we have caught him devouring pigeons, his own subjects,
feeding and fattening upon those that he promised to safeguard and protect: Therefore be it

Resolved, That we depose our king and be done with him for good.

And they did so, and the pigeons went their way and prospered.

There is just as much harmony to be had between a real progressive and a stand-pat Republican as there is between a kite and a pigeon or a hawk and a chicken.

Mr. President, I wish I could have gotten this apparently friendly spirit in the Old Guard crowd when for 18 months I stood here pleading for relief from high rediscount rates, when, under the fight that I made, and some others, we forced the rediscount rate down from 7 per cent to 4½ per cent. I wish that we could have had a little aid from the stand-pat Republicans then. I recall that I had a resolution pending, to force a reduction in the rediscount rate; and the Senator from Connecticut [Mr. MCLEAN], chairman of the Banking and Currency Committee, one of the chief standpatters, got up here one day and criticized and made fun of my resolution to force down the rediscount rates so that men who needed money could get money to carry on their business. When I see these Senators coming over and wanting to take the Progressives into their bosoms and have the farming interests intrusted to them, finding out since the election is past that something is happening in the country, I am reminded of what the son of the author of Greer's Almanac said on one occasion. They said to him: "Boy, are you such a prophet as your father was? Can you predict what the weather is going to be as he could?" He said, "I do not know that I have any of my father's qualities as a prophet." He said, "There is this difference between me and my father: He could always tell when it was going to rain, and I can always tell when it has rained." [Laughter.] So you can tell by what these standpatters are undertaking to do that we had a rain or, rather, a perfect deluge of ballots on the 7th day of November, and they are seeking now not to aid the Progressives but to swallow them up. They are seeking now to take them over and to operate on them.

You Progressives submit yourselves to the tender mercies of these smooth artists of the Old Guard, and when you come out of there you will not feel half so frisky as you do now.

Mr. President, here is another very touching thing:

At the meeting in LODGE's office the Old Guard Senators agreed among themselves that high freight rates and the new tariff law are in no way to blame for the existing high cost of food products. Responsibility for the same was charged to profiteering by Senator WARSON and others who addressed the gathering. Hence it was decided to make a general assault upon profiteering under the Old Guard auspices.

Mr. President, when I was at home just after the election I saw an auto truck hauling cotton out of my town to La Grange, Ga., a distance of about 35 or 40 miles. There were 20 bales of cotton on this truck, which was speeding along through the country. I hailed the young man driving the truck, and he stopped. I said, "Where are you taking that cotton?" He said, "Over to the La Grange cotton mill." I said, "Cotton must be very scarce over there. They must be hard pressed for cotton when you are carrying to them only 20 bales." He said, "No, sir; I have been hauling cotton all the fall from Lafayette—my home town—to La Grange in auto trucks." Senators, that presents a serious problem. I said to him, "Do you mean to tell me that you can haul cotton in an auto truck, making these trips constantly, day after day, from Lafayette to La Grange, and haul it cheaper than it can be hauled on the railroad, 500 to 1,000 bales at a time?" He said, "Yes, sir; much cheaper." And yet here the Old Guard says that high freight rates have nothing to do with the high cost of living.

I want to tell the Senate to-day that freight rates are practically prohibitive in many instances.

Freight rates are so high that the farmers can not afford to ship their stuff, and when the freight price is charged in it increases the price to the consumer, and the whole business is hurt; the railroads are hurt, the producer is hurt, and the auto trucks are cutting into the business of the railroads. It would really benefit the railroads to lower the freight rate on many things, because the traffic would greatly increase and they would make more money. I want a freight rate that will be fair to the shipper, fair to the railroad, and fair to the consumer.

I pointed out before, Mr. President, that it is contended the Republican tariff has nothing to do with the increased cost of living; and that is said here. I can cite one instance—the case of sugar. They have increased the price of sugar 2 cents a pound by law. Of course, that increases the cost of living, so far as sugar is concerned. We have all been told that every one of us has a sweet tooth, and if that is true, everybody might just as well get ready to consult his dentist under Republican rule, because that tooth has to come out. [Laughter.] Sugar is increased by law 2 cents a pound.

That is not all. They say the cost of living is not increased. Cement is a thing in common use. We use it for nearly everything about the home, the farm, the town. We use it for sidewalks, for streets, for roads from the farm to market, and for building bridges over little streams and creeks and rivers.

We use it for making water troughs for stock. It is used to make posts for use in constructing wire fences. They use it to make stables for horses and warehouses for cotton, oats, and wheat, and things of that kind. They use it for making dwelling houses, church houses, schoolhouses; but the Republicans put a tax of about 11 cents a hundred on cement for the benefit of the Cement Trust of Michigan. Yet they say in this little statement that their tariff tax had nothing to do with increasing the burden of the man who has to buy these things, the common necessities of life.

That is not all they have done. They have put a tax on salt of about 15 cents a hundred pounds. That is an increase of 30 cents on a 200-pound sack of salt, and we use salt in our bread; we use it to season our food; we use it to cure and save our meat; and the Republican Party, under the leadership of the Old Guard, has put a tax on salt, one of the commonest necessities of life. They took salt off the free list, where the Democrats had it, and they have increased the price about 30 cents on a sack of salt by the action of a stand-pat Republican Congress. If I had voted the Republican ticket and had stood for putting a tax on salt I could never look a salt cellar in the face again. [Laughter.] Yet these Old Guard fellows say these things have nothing to do with increasing the cost of living.

This gives us a sample of how the lion is going to swallow the lamb. They are not going to touch any big, questionable, and oppressive interest. You need not look for that from the Old Guard. They bow and smile to them; but let one of these little interests come creeping along and they pounce upon it. Did you ever see one of these big dogs amongst a lot of other dogs a little smaller than he; how he would growl and throw up the hair on his neck, then in dog language talk to them and intimidate them, and then, when some great big dog would come along, how this dog would lower his bristles and bow and smile at this other bigger dog? That is the way these stand-pat Republicans do when certain big oppressive interests come around. That is the bunch that is now undertaking to swallow the Progressives.

Mr. President, what they will do to these special interests would be accepted by them with smiles and thanksgiving, and with all the good graces with which a bride and groom accept the shower of rice thrown upon them when leaving on their bridal tour. Have you seen a bride and groom come down to the station and their friends come and shower them with rice? That is the sort of battle the Old Guard are going to carry on against these crooked special interests in the country, and they are inviting the Progressives to join them. The Progressives really have some spikes in their clubs. They can do some damage to the crooked interests if they will use them properly. But these fellows want to get them over, so that they can take the spikes out of their clubs, and let them have a pillow battle with these oppressive interests. The standpatters want you to substitute feather pillows for spiked clubs. The situation reminds me of another thing. One of our negro soldiers, when he was going into the service, was brought up, and they said to him,

"What is your name?"

He said, "My name is Sam."

"Where do you live, Sam?"

He said, "I lives out here about 5 miles."

They said, "Designate some spot, because we want to get your post-office address. Have you any family out there?"

He said, "Yes, sah; my mammy lives out there."

"What is her post-office address?"

He said, "What do you want to know that for? She ain't gwine to war, is she?"

"No," they said; "but we want to know where to ship your remains in case—"

He said, "How is that?"

"We want to know where we are to ship your remains if"—

"Ship whose remains?"

"Your remains."

He reached for his hat and fled through the open door, and as he passed out at the door he hollered back to the officer, "They ain't gwine to be no remains." [Laughter.]

I am serving notice on my Progressive friends now that if they walk into that stand-pat, Old Guard trap "there ain't going to be no remains." [Laughter.] The Old Guard will just simply swallow you whole.

There are some more really touching lines in this article, Mr. President. Let me read this on rural credits:

A rural credit bill, to extend a larger measure of credit to the farmer, thereby enabling him to weather the period between harvesting and marketing of his crops, is another measure which will be pressed by the new farm group. That is the group to be formed by the Old Guard.

Mr. President, we passed a resolution which had two sections in it, one reviving the War Finance Corporation, the other requesting the banks to loan money at the lowest rate of interest in keeping with sound banking, and the Old Guard of the Republican House struck it out and the Old Guard in this body made no complaint about it being stricken out. They wanted it stricken out. We were trying then to devise some means to give the farmer aid in the way of credit, and they had an opportunity to do it, and when the opportunity was presented, they struck the farmer over the head with a club, and they denied him the little relief we offered in section 2 of that resolution.

Now, after the election rain has come and the political storm has passed, these old stand-pat fellows, like Greer's Almanac boy, can tell when it has rained, and they are now offering to do something for the farmer of the South and West, all this after he has been literally robbed of \$15,000,000,000 in two years' time. Those who permitted the robbery, those who sanctioned the pillage and plunder, are now saying, "Let us now go to his rescue." Mr. President, such legislation as these gentlemen might effect would not help the farmers of the United States.

There was a Senator in this body who finally fell half-heartedly in line with us, and halfway supported some of these measures. But the farmers of his State could not be fooled. He was defeated. You can not fool the farmers about these things. The Senator who, when forced to meet an issue, when there is no escape, has to vote, will sometimes vote for one of these meritorious measures because he is afraid to vote against it; but that is not the sort of friend the farmer wants in this body. It is the man who is thinking of something that will help the farmer, who is always working for something that will bring him relief, who is his friend in season and out, and who is trying to protect him from those who pillage and plunder him. That is the sort of man who ought to be here, and not the man who, when he is forced to do it, will vote and then walk back into the cloak room and say, "I hated to vote for that, but there was no other alternative under the circumstances." The sooner such Senators get out of here the better it will be, and I do not want these Progressives to be deceived by any honeyed word the Old Guard will now hand out to him in order to hamstring or forestall him. They have more devious aisles and crooked walks and curious labyrinthian ways in that thing they are inviting you into than you ever saw, and you had better stay out of it. You have seen a fly perform on Tangle-Foot, have you not? [Laughter.] Whenever they get you in there and you commence trying to fly, the more you try to fly the harder you stick, and anyway, if ever the farmers see you come out of one of these stand-pat caucuses, they will whisper out of the sides of their mouths and say, "By golly, they've got him."

I am giving you warning. You had better steer clear of that thing. It is loaded. You know they say the first fellow who ever tasted strychnine did not know what it was, but he was a clever man and he wanted to help humanity. He felt the deadening effect of the drug before he died and he wrote a note and fastened it to it.

It read, "This stuff is poison." That thing I am talking to you about has poison in it. You had better stay out of it. If I catch any of you in there I am going to talk some about it myself here, because I want you to be foot-loose so that you

can work with me and with others on this side on measures that will benefit the masses. We are going to try to do something for the country banker in the next Congress, and for the country merchant and the farmer and the laboring man, the doctor, the lawyer, the preacher, the teacher—the whole mass of the American people. We are going to wring out of the hands of a coterie of plutocrats in Wall Street the control of the money supply and credit of a hundred million people, and they see it. They are trying now to disarm you and fix you so that you will be harmless.

You know what Æsop's fable said the farmer did with the lion, do you not? He said the lion courted the farmer's daughter, and he asked the farmer to give him his daughter in marriage, and the farmer said, "I am afraid you will scratch her and bite her."

He said, "No; I would not."

The farmer said, "I am afraid you would."

The lion said, "What suggestion have you to make?"

The farmer said, "Go and have your teeth knocked out and your claws cut off."

He did, and when he came back he was a pitiful looking object, and then the farmer knocked him in the head with a stick.

When you Progressives go into this arrangement with the standpatters of the Old Guard they are going to knock your progressive teeth out and cut your progressive claws, and you will not be in any condition for fighting them.

Mr. President, I must comment a moment more on the grim determination of the standpatters of the Old Guard to provide—

A rural credit law to extend a larger measure of credit to farmers.

Oh, how touching, how pathetic it is, to see the Old Guard sitting up at night planning ways and means for extending larger measures of credit to the farmers of the United States. It is both pleasing and refreshing. It gives us in a way a gleam of hope, because they know what we are going to do unto them in the next Congress. That is it, and they are trying to forestall action. They are undertaking to break up any plan that we may effect by which legislation can be passed in this body.

I want to see the Progressives remain out of the dilemma into which they are being invited.

There is one other story that illustrates the situation. I believe I have two minutes more until 2 o'clock. That is the story of the boy who went out from one of our States—a pretty wild, reckless fellow. He went away, and in his expeditions came in contact with a tiger and the tiger disposed of him. They wired the old man at home that this thing had happened, that his son had been killed by a tiger, and asked the old man what disposition he wanted them to make of the remains. He wired them to send the body home. When the crated arrangement arrived the old man went down, opened it, and found there the body of a dead tiger. The old man said: "I shall not pay any express on that package. That is a tiger. I wired them to send my son's body." They wired back to the old man, "Son in tiger." I can see your finish now if you go into any meetings with the Old Guard crowd. When you come out the Progressives will be inside the standpatters, and that will be the end. I beg of you to beware of such a finish.

Now, Mr. President, the hour of 2 has arrived, and I ask for the yeas and nays on the motion of the Senator from Mississippi [Mr. HARRISON].

The PRESIDING OFFICER (Mr. JONES of Washington in the chair). The yeas and nays have already been ordered.

Mr. UNDERWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Ball	Hale	McNary	Simmons
Bayard	Harrell	Myers	Smith
Borah	Harris	New	Smoot
Brandeggee	Harrison	Nicholson	Sutherland
Capper	Heflin	Norris	Townsend
Caraway	Jones, Wash.	Page	Underwood
Curtis	Kellogg	Pepper	Wadsworth
Dial	Keyes	Pittman	Walsh, Mass.
Edge	Ladd	Poindexter	Warren
Fletcher	La Follette	Pomerene	Watson
Frelinghuysen	Lodge	Ransdell	Weller
George	McCumber	Reed, Pa.	Willis
Glass	McKellar	Sheppard	
Gooding	McKinley	Shortridge	

The PRESIDING OFFICER. Fifty-four Senators have answered to their names. A quorum is present. The question is on the motion of the Senator from Mississippi [Mr. HARRISON] to amend the Journal, on which the yeas and nays have been ordered. The Secretary will call the roll.

The Assistant Secretary proceeded to call the roll.

Mr. HALE (when his name was called). Making the same announcement as before, I vote "yea."

Mr. McCUMBER (when his name was called). Transferring my pair as on the previous vote, I vote "nay."

Mr. SUTHERLAND (when his name was called). Making the same announcement as on the previous vote, I vote "nay."

Mr. WATSON (when his name was called). Making the same announcement as before, I vote "nay."

The roll call was concluded.

Mr. GLASS. Making the same announcement as on the previous vote, I vote "yea."

Mr. STERLING. Making the same announcement as to my pair and transfer as on the last vote, I vote "nay."

Mr. CURTIS. I wish to announce the following general pairs:

The junior Senator from Kentucky [Mr. ERNST] with the senior Senator from Kentucky [Mr. STANLEY];

The Senator from Rhode Island [Mr. COLT] with the Senator from Florida [Mr. TRAMMELL]; and

The Senator from Illinois [Mr. McCORMICK] with the Senator from Wyoming [Mr. KENDRICK].

The result was announced—yeas 44, nays 12, as follows:

YEAS—44.

Ball	Edge	Lodge	Poindexter
Bayard	Fletcher	McKellar	Reed, Mo.
Borah	George	McKinley	Reed, Pa.
Brandeggee	Glass	McNary	Sheppard
Calder	Hale	New	Simmons
Cameron	Harris	Nicholson	Smoot
Capper	Harrison	Overman	Swanson
Caraway	Heflin	Page	Underwood
Cummins	Jones, Wash.	Pepper	Walsh, Mass.
Curtis	Keyes	Phipps	Warren
Dial	La Follette	Pittman	Weller

NAYS—12.

Frelinghuysen	McCumber	Rawson	Wadsworth
Gooding	Nelson	Sterling	Watson
Kellogg	Norris	Sutherland	Willis

NOT VOTING—39.

Ashurst	Gerry	McLean	Shortridge
Broussard	Harrell	Moses	Smith
Bursum	Hitchcock	Myers	Spencer
Colt	Johnson	Norbeck	Stanfield
Culberson	Jones, N. Mex.	Oddie	Stanley
Dillingham	Kendrick	Owen	Townsend
Elkins	King	Pomerene	Trammell
Ernst	Ladd	Ransdell	Walsh, Mont.
Fernald	Lenroot	Robinson	Williams
France	McCormick	Shields	

So Mr. HARRISON's motion to amend the Journal was agreed to.

Mr. UNDERWOOD. I move that the Senate adjourn, and upon that motion I demand the yeas and nays.

The PRESIDING OFFICER. The question is on the motion of the Senator from Alabama that the Senate adjourn, on which he demands the yeas and nays.

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.

Mr. BROUSSARD (when his name was called). I have a pair with the senior Senator from New Hampshire [Mr. MOSES]. I transfer that pair to the Senator from Rhode Island [Mr. GERRY] and vote "yea."

Mr. EDGE (when his name was called). Making the same announcement as to the transfer of my pair as on the previous ballot, I vote "nay."

Mr. GLASS (when his name was called). Repeating the announcement heretofore made as to the transfer of my pair, I vote "yea."

Mr. HALE (when his name was called). Making the same announcement as before with reference to my pair and its transfer, I vote "nay."

Mr. WATSON (when his name was called). Making the same announcement as before as to the transfer of my pair, I vote "nay."

The roll call was concluded.

The PRESIDING OFFICER (Mr. JONES of Washington, after having voted in the negative). The Chair desires to state that he is paired for the afternoon with the senior Senator from Virginia [Mr. SWANSON], but transfers that pair to the junior Senator from Oregon [Mr. STANFIELD] and will allow his vote to stand.

Mr. McCUMBER (after having voted in the negative). I transfer my pair as on the previous roll call and will allow my vote to stand.

Mr. BALL (after having voted in the negative). I have a general pair with the Senator from Florida [Mr. FLETCHER]. I understand he has not voted. Is that correct?

The PRESIDING OFFICER. The Senator from Florida, the Chair is informed, has not voted.

Mr. BALL. I transfer my pair with the Senator from Florida to the junior Senator from Pennsylvania [Mr. REED] and will allow my vote to stand.

The result was announced—yeas 14, nays 32, as follows:

YEAS—14.

Bayard	George	Heflin	Simmons
Broussard	Glass	McKellar	Underwood
Caraway	Harris	Pittman	
Dial	Harrison	Sheppard	

NAYS—32.

Ball	Gooding	McCumber	Rawson
Borah	Hale	McKinley	Shortridge
Cameron	Jones, Wash.	McNary	Smoot
Capper	Kellogg	New	Townsend
Cummins	Keyes	Nicholson	Walsh, Mass.
Curtis	Ladd	Norris	Watson
Edge	La Follette	Page	Weller
Frelinghuysen	Lodge	Phipps	Willis

NOT VOTING—49.

Ashurst	Harrell	Oddie	Stanfield
Brandegee	Hitchcock	Overman	Stanley
Bursum	Johnson	Owen	Sterling
Calder	Jones, N. Mex.	Pepper	Sutherland
Colt	Kendrick	Poinexter	Swanson
Culberson	King	Pomerene	Trammell
Dillingham	Lenroot	Ransdell	Wadsworth
Elkins	McCormick	Reed, Mo.	Walsh, Mont.
Ernst	McLean	Reed, Pa.	Warren
Fernald	Moses	Robinson	Williams
Fletcher	Myers	Shields	
France	Nelson	Smith	
Gerry	Norbeck	Spencer	

The PRESIDING OFFICER. A quorum has not voted. The Secretary will call the roll in order to develop a quorum.

The reading clerk called the roll, and the following Senators answered to their names:

Ball	Hale	McNary	Smoot
Bayard	Harrell	New	Stanfield
Borah	Harris	Nicholson	Stanley
Broussard	Harrison	Norris	Sutherland
Cameron	Heflin	Overman	Townsend
Capper	Jones, N. Mex.	Page	Underwood
Caraway	Jones, Wash.	Pepper	Wadsworth
Cummins	Kellogg	Phipps	Walsh, Mass.
Curtis	Keyes	Pittman	Warren
Dial	Ladd	Rawson	Watson
Edge	Lodge	Reed, Pa.	Weller
George	McCumber	Sheppard	Willis
Glass	McKellar	Shortridge	
Gooding	McKinley	Simmons	

The PRESIDING OFFICER. Fifty-four Senators have answered to their names. A quorum is present. The question is on the motion of the Senator from Alabama [Mr. UNDERWOOD] that the Senate adjourn. On that motion the yeas and nays have been ordered, and the Secretary will call the roll.

The reading clerk proceeded to call the roll.

Mr. BROUSSARD (when his name was called). Making the same announcement as before, I vote "yea."

Mr. EDGE (when his name was called). Making the same announcement as before, I vote "nay."

Mr. GLASS (when his name was called). Repeating the announcement made on the previous vote, I vote "yea."

Mr. HALE (when his name was called). Making the same announcement as before, I vote "nay."

The PRESIDING OFFICER (when the name of Mr. JONES of Washington was called). The present occupant of the chair is paired with the Senator from Virginia [Mr. SWANSON] for the afternoon, but finds that he can transfer that pair to the junior Senator from Wisconsin [Mr. LENROOT]. He does so, and votes "nay."

Mr. McCUMBER (when his name was called). I transfer my general pair with the junior Senator from Utah [Mr. KING] to the senior Senator from Maryland [Mr. FRANCE], and I will allow this announcement to stand for this calendar day. I vote "nay."

Mr. STANLEY (when his name was called). I have a general pair with the junior Senator from Kentucky [Mr. ERNST]. I transfer that pair to the senior Senator from Texas [Mr. CULBERSON] and vote "yea." I make this announcement for the day.

Mr. STERLING (when his name was called). Making the same announcement as on the former vote with regard to my pair and its transfer, I vote "nay."

Mr. WATSON (when his name was called). Making the same announcement as before, I vote "nay."

The roll call was concluded.

Mr. SUTHERLAND. Making the same announcement as on the previous votes, I vote "nay."

Mr. FRELINGHUYSEN (after having voted in the negative). I transfer my general pair with the junior Senator from Montana [Mr. WALSH] to the junior Senator from Oklahoma [Mr. HARRELD], and will allow my vote to stand.

Mr. CURTIS. I have been requested to announce the following general pairs:

The Senator from South Dakota [Mr. STERLING] with the Senator from South Carolina [Mr. SMITH];

The Senator from Illinois [Mr. McCORMICK] with the Senator from Wyoming [Mr. KENDRICK]; and

The Senator from Rhode Island [Mr. COLT] with the Senator from Florida [Mr. TRAMMELL].

The result was announced—yeas 17, nays 39, as follows:

YEAS—17.

Bayard	George	McKellar	Stanley
Broussard	Glass	Overman	Underwood
Caraway	Harris	Pittman	
Dial	Harrison	Sheppard	
Fletcher	Heflin	Simmons	

NAYS—39.

Ball	Jones, Wash.	New	Stanfield
Borah	Kellogg	Nicholson	Sterling
Cameron	Keyes	Norris	Sutherland
Capper	Ladd	Page	Townsend
Curtis	La Follette	Pepper	Wadsworth
Edge	Lodge	Phipps	Walsh, Mass.
Elkins	McCumber	Poinexter	Watson
Frelinghuysen	McKinley	Reed, Pa.	Weller
Gooding	McNary	Shortridge	Willis
Hale	Nelson	Smoot	

NOT VOTING—39.

Ashurst	France	McLean	Robinson
Brandegee	Gerry	Moses	Shields
Bursum	Harrell	Myers	Smith
Calder	Hitchcock	Norbeck	Spencer
Colt	Johnson	Oddie	Swanson
Culberson	Jones, N. Mex.	Owen	Trammell
Cummins	Kendrick	Pomerene	Walsh, Mont.
Dillingham	King	Ransdell	Warren
Ernst	Lenroot	Rawson	Williams
Fernald	McCormick	Reed, Mo.	

So the Senate refused to adjourn.

Mr. HARRISON. Mr. President, I desire to offer an amendment.

On yesterday, as shown by the Journal, page 3, the Journal says that Mr. LADD presented numerous petitions of citizens of North Dakota praying for the enactment of legislation providing for the stabilization of wheat prices. This is such an important question that certainly the Journal should state the localities in which the citizens reside who pray for this legislation. So I move that the Journal be amended so as to state from what places in North Dakota those petitions come, and on that I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Mississippi moves to amend the Journal in the respect mentioned, and on that motion he asks for the yeas and nays. Is the request seconded?

The yeas and nays were ordered, and the reading clerk proceeded to call the roll.

Mr. BROUSSARD (when his name was called). Making the same announcement as before, I vote "yea."

Mr. EDGE (when his name was called). Making the same announcement as to transfer, I vote "nay."

Mr. GLASS (when his name was called). Making the same announcement as before, I vote "yea."

Mr. HALE (when his name was called). Making the same announcement as before, I vote "nay."

Mr. JONES of Washington (when his name was called). The senior Senator from Virginia [Mr. SWANSON] is necessarily absent for the afternoon, and I have promised to take care of him by a pair. I find that I can transfer that pair to the junior Senator from Wisconsin [Mr. LENROOT]. I do so, and vote "nay."

Mr. STANLEY (when his name was called). Making the same announcement as before with reference to my pair and its transfer, I vote "yea."

Mr. SUTHERLAND (when his name was called). Making the same announcement as on the previous vote with reference to my pair and its transfer, I vote "nay."

Mr. WATSON (when his name was called). Making the same announcement as heretofore, I vote "nay."

The roll call was concluded.

Mr. FRELINGHUYSEN. Transferring my general pair with the Senator from Montana [Mr. WALSH] to the Senator from South Dakota [Mr. NORBECK], I vote "nay."

Mr. CURTIS. I have been requested to announce the following general pairs:

The Senator from South Dakota [Mr. STERLING] with the Senator from South Carolina [Mr. SMITH];

The Senator from Illinois [Mr. McCORMICK] with the Senator from Wyoming [Mr. KENDRICK]; and

The Senator from Rhode Island [Mr. COLE] with the Senator from Florida [Mr. TRAMMELL].

The result was announced—yeas 18, nays 39, as follows:

YEAS—18.

Bayard	Glass	Overman	Simmons
Broussard	Harris	Pomerene	Stanley
Caraway	Harrison	Ransdell	Underwood
Fletcher	Heflin	Reed, Mo.	
George	McKellar	Sheppard	

NAYS—39.

Ball	Harrell	New	Smoot
Cameron	Jones, Wash.	Nicholson	Stanfield
Capper	Kellogg	Norris	Sutherland
Curtis	Keyes	Page	Townsend
Dial	Ladd	Pepper	Walsh, Mass.
Edge	La Follette	Phipps	Warren
Elkins	Lodge	Poinexter	Watson
Frelinghuysen	McCumber	Rawson	Weller
Gooding	McKinley	Reed, Pa.	Willis
Hale	McNary	Shortridge	

NOT VOTING—38.

Ashurst	Fernald	McLean	Smith
Borah	France	Moses	Spencer
Brandeggee	Gerry	Myers	Sterling
Bursum	Hitchcock	Nelson	Swanson
Calder	Johnson	Norbeck	Trammell
Cole	Jones, N. Mex.	Oddie	Wadsworth
Culberson	Kendrick	Owen	Walsh, Mont.
Cummins	King	Pittman	Williams
Dillingham	Lenroot	Robinson	
Ernst	McCormick	Shields	

So Mr. HARRISON's motion was rejected.

Mr. UNDERWOOD. Mr. President, on the approval of the Journal I want to say a few words, not entirely along the line of the approval of the Journal, before I make another motion to adjourn.

We are not disguising what is being done on this side of the Chamber. It must be apparent, not only to the Senate but to the country, that an effort is being made to prevent the consideration of a certain bill, and I want to be perfectly candid about it. The bill is known in the RECORD as the Dyer bill, I believe; I have forgotten its number. It is known throughout the country generally as a "force" bill.

Now, I want to say that I stand for law and order. I believe in enforcing laws, even if I did not approve of the laws on their passage. I think that in a government of law, law must be enforced, and enforced by the judicial tribunals of the country and not by mobs or collections of citizens who think that they can administer the law better than the law can administer itself.

So when I say that I am opposed to the passage of this so-called "force" bill it is not that I favor mob law under any circumstances. But under the Constitution of our country the power of government was divided between the Government at Washington, known as the Federal Government, and the governments in the several States, and I think that should this so-called Dyer bill, or "force" bill, become a law it would be the beginning of tearing down the last fabric left in the Constitution to support the integrity of the State governments. There never has been a time in my own State when it was necessary for me to lift up my voice for the enforcement of the law through orderly procedure that I have failed to do so. There never has been a time when it was a question of the enforcement of the law or the rule of the mob that I have not condemned mob rule. But I think that if the bill became a law it would threaten the very fabric of our Government, and it is not going to become a law at this session of Congress.

I do not say that captiously. I think all men here know that under the rules of the Senate when 15 or 20 or 25 men say that you can not pass a certain bill, it can not be passed. You could not pass your tariff bill last summer until we agreed to vote on it, and you are not going to get an agreement to vote on this bill. It is perfectly apparent that you are not going to get an agreement to vote on it. If you should change the rules, and adopt a cloture rule under which the majority would have a right to cut off debate, the majority could pass any bill they wanted to.

Mr. McKELLAR. They could not do it at this session.

Mr. UNDERWOOD. They could not do it at this session, of course, and under the rules of procedure in the Senate this is an impossible proposition.

In what I say to the leadership on the other side of the Senate I am not reflecting on their effort. They have made their effort. But there is great business of the country to be transacted. With the growth of business in this country it is a difficult problem to pass the supply bills at a short session of Congress. There is other legislation approaching that is of moment, legislation for which many of us may not vote, but which is entitled to consideration.

At the last session of Congress we had this "force" bill up, and I think I very candidly stated to the Senate when it was

up that we did not propose to allow it to be passed, and I want to say right now to the Senate that if the majority party insist on this procedure they are not going to pass the bill, and they are not going to do any other business. There are a large number of men whose names have been sent to the Senate, who have been appointed to important offices, and who are entitled to confirmation, and who ought to be confirmed; but they are not going to be confirmed; we are going to transact no more business until we have an understanding about this bill.

I am saying this because I am not trying to put the responsibility upon the other side. They can say I said it.

Mr. WATSON. Will the Senator permit a question?

Mr. UNDERWOOD. Certainly.

Mr. WATSON. Has the Senator conferred with a sufficient number of his colleagues on the other side to be able to speak for them and know that they will second his efforts along the line he suggests?

Mr. UNDERWOOD. I have not conferred with them as in a conference; that was not necessary. The Senator knows perfectly well that the representatives in the Senate from a very large portion of the United States, representing a number of States, will never allow a force bill to pass. A conference is not necessary to enlighten us on that point. The record votes here all morning are a demonstration of what I say, that I am not saying this for myself, that I am not making this statement alone. Let the Senator consider the record of the roll calls in the Senate this morning.

If you gentlemen want to continue, after this candid statement of the case, and keep this bill before the Senate, when you know it is going to be blocked and can not be passed, thereby stopping the transaction of all other business, go ahead, and we will have roll calls and move adjournments day and night. We can alternate between roll calls and motions to adjourn. If you do not intend to do that, we might as well come to an understanding and lay the bill aside, because you can not pass it. You know you can not pass it. Then let us go along and attend to the business of the country.

Mr. SIMMONS. Mr. President—

The VICE PRESIDENT. Does the Senator from Alabama yield to the Senator from North Carolina?

Mr. UNDERWOOD. I yield.

Mr. SIMMONS. I wanted to say to the Senator from Indiana, who asked a question of the Senator from Alabama a little while ago, that in my judgment, after talking with a great many Senators on this side of the Chamber, I think the position of the Senator from Alabama is absolutely the attitude of the Senators on this side of the Chamber.

Mr. UNDERWOOD. I am sure of that; but I did not want to speak for anyone except myself. The RECORD speaks for other Senators. That is the situation here, and I think we had better clear the deck and confirm the men whose nominations are coming in. The members of the majority party do not have to take the responsibility. We are willing to take the responsibility, and we are going to do it. Unless we can come to some understanding about this matter I propose, before yielding the floor, to make another motion to adjourn, and ask for the yeas and nays on it.

Mr. EDGE. Mr. President—

Mr. UNDERWOOD. I withhold the motion a moment, if the Senator desires to say something.

Mr. EDGE. I desire to get the floor to make a parliamentary inquiry. Has there been any business transacted since the last motion to adjourn?

Mr. UNDERWOOD. We have just voted on a motion to amend the journal.

Mr. EDGE. If the Senator insists on a motion to adjourn—

Mr. UNDERWOOD. If the Senator desires to say something I will withhold it.

Mr. EDGE. I am simply going to make a short reply to the Senator after the motion to adjourn is voted on, if he insists on making it.

Mr. UNDERWOOD. I withdraw the motion temporarily, until the Senator from New Jersey has had a chance to make a speech.

Mr. EDGE. Mr. President, I am sure all Senators admire at least the frankness of the Senator from Alabama in his very positive statement. I might say challenge, that if dilatory tactics can prevent we will not be permitted to vote upon this bill, or, more than that, the bill will not even be permitted to become the unfinished business, which is the pending question, as I understand it.

I listened with a great deal of entertainment, as I always do, to the speech of the Senator from Mississippi this morning, when he seemed to be so distressed that business was not con-

ducted in the open, indicating that he was so anxious that business should be transacted absolutely in the open, so that the American people could be cognizant of what was going on.

I wonder, then, why the present situation will not appeal to the Senator from Mississippi. Here is a measure which has passed the other branch of Congress. No man can deny that it is for the purpose of trying to curb to some extent, or alleviate, a condition existing to-day in our country which no Senator on either side of the Chamber will attempt to defend. Why not permit it properly to come to a vote in the open, and not attempt to defeat by technicalities what probably could not be beaten by argument or debate?

I can not discuss and have no intention of discussing the constitutional side of the question, and to be perfectly frank about it, with all due regard to my oath to uphold the Constitution, I will not say that the constitutional side of the question does not concern me, because, of course, it concerns all of us, but it is difficult, especially for a layman, to decide such questions, when able lawyers on that side of the Chamber in any issue which may be brought up, not only this one, will contend with great emphasis and positiveness that the measure is or is not constitutional, and just as able lawyers on this side will take the opposite side of the case, so far as the constitutionality of the measure is concerned, or vice versa.

Mr. McKELLAR. Mr. President—

Mr. EDGE. I hope the Senator will permit me to continue. I attempted to interrupt the Senator from Mississippi this morning, but he refused to be interrupted. I want to be courteous, and in the few moments that I shall take the time of the Senate I would like to be permitted to speak without interruption.

Therefore the question of constitutionality, it seems to me, becomes to a great extent so uncertain and involved that again, I repeat, it is difficult, at least for laymen, and I am quite sure almost equally for lawyers, to decide for themselves positively whether a suggested measure is or is not constitutional.

In any event, laws of the character of this measure are naturally carried to the Supreme Court for review, and questions of constitutionality are properly decided there. So, waiving that, as I can not decide, and I am sure able lawyers on the other side can not decide it, and I am sure able lawyers on this side can not decide it, let us, therefore, face the unescapable fact that it is our duty to try in some way to help alleviate or solve this disgraceful condition.

It is well known that there is a spirit of unrest all over the country to-day, a spirit of unrest which has been developed by recent happenings, the Great War and other things; that we are having outbreaks in our own country among people in no way associated with lynching; outbreaks of all kinds, apparently against the Government, and hundreds of thousands of people in this country are subscribing to the Constitution only sufficiently to keep themselves out of jail. We know that a spirit of unrest exists all over the nation, and yet we, the Senate of the United States, facing and knowing the situation which exists, not only in the Southern States, but to some extent in other States of the Union, where men take the law in their own hands and decide cases without trial and even commit murder, we refuse, on some technical ground of constitutionality, to even attempt to relieve that situation.

It is the duty of the Senate to enact legislation of this character, or some measure that would serve to give the power of the Federal Government, of the central government, to any State of the Union which, either because it wants to or otherwise, fails to punish such blots on the life of the nation, as these recurrences of unpunished lynchings can only be classified.

I do not see, Mr. President, how we can expect to furnish an example to the nation, generally speaking the other 110,000,000 or 112,000,000 of people, and encourage them to uphold the laws, when we sit supinely by and make absolutely no effort to place the power of the Federal Government in such position that it can assist in enforcing the laws of the land. If the Constitution means anything, and it does, it means that we guarantee life and liberty to all citizens of the country. It means that we promise a trial by jury for any offense of whatever character, and we are certainly making absolutely no effort to carry out the mandates or provisions of the Constitution. We can not, in my judgment, afford to sit here and not make some effort, whether it be successful or otherwise. The continued recurrence of these massacres in different sections of the country is a condition and not a theory. It is our duty to make some effort in the hope that it may strengthen the Government, the police powers, the prosecuting powers, and the courts in those sections of the country where none or little attention seems to be paid to these crimes or their punishment. No one can for a moment—

Mr. REED of Missouri. Mr. President—

Mr. EDGE. If the Senator will wait a moment I shall conclude. No one can say for a moment that crimes of the character that usually bring about or inspire these lynchings will not be properly punished by the courts. I am sure no one on either side of the Chamber would defend a situation that would permit lynchings rather than proper court trials, for they have said that they would not, and I know they would not. I do not raise the question at all. Then why can it be any reflection upon a State if the Government, as provided in the pending measure, offers its cooperation and its assistance to try to help curb a situation and make it more positive that a fair trial will be given any man accused of crime—murder or whatever the offense may be?

We legislate here to try to relieve the economic situation. We legislate here to try to bring back prosperity in industrial and agricultural sections, and very properly so. Yet we refuse to legislate to try to assist in a situation where, of course, the most sacred thing of all is involved, that of human life. We can not, I repeat, in justice to ourselves and our responsibilities, sit here and continue to depend upon the States to mete out justice as the Constitution promises when we know perfectly well that in many instances it is not being done. We evade the responsibility when, by dilatory tactics or in any other way, a frank, open opportunity to vote yea or nay on the bill is denied. If the majority of the Senate favors it, enact it into law, and let it become the law and see if it will not at least contribute something toward a situation which everyone must admit is intolerable. Face it in the open and do not strangle it.

Now, Mr. President, I realize the feeling in some sections, which is very unfortunate, I think, that seems to exist and makes the opposition to the bill so determined, I might even say bitter. I realize that the Senator from Alabama [Mr. UNDERWOOD], if I understood him correctly, very properly said that he would in no way defend mob violence or these uprisings against the law. Of course, he would not. Neither would any other Senator or any other red-blooded American citizen. But the fact remains that they are occurring and, I believe, increasing. The fact remains that we have done nothing in any way, so far as I know, to try to curb them.

The fact remains that our country is badly disturbed to-day because of internal borings from within and opposition to law and order and even the Constitution. If we do not set the example in this Chamber, then we in effect, by our silence and our unwillingness to help the situation, practically condone or indorse the conditions as they now exist.

Mr. President, I simply wanted to go on record. I fear what the Senator from Alabama said may be true—that the opposition will not permit us to have an opportunity to vote on the bill. I want to go on record, at least, while the bill was before the Senate as absolutely in favor of some method which would give the strength and power of the Federal Government to at least try to stop these dastardly crimes which are such an unpardonable blot upon our civilization.

Mr. McKELLAR. Mr. President, I do not wonder that the Senator from New Jersey has some suggestions to make about the bill, in particular, and nonenforcement of law generally. We have had in New Jersey, his own State, one of the most remarkable examples of unpunished crime up to this date that the country has known for many years. Some one killed a minister and a choir singer in the Senator's home State, and, so far as the country knows, there has been no real effort to punish the criminals who perpetrated the crime. It is perfectly remarkable how a Senator can condemn crime in such severe terms when it occurs outside of his State, and how little attention he pays to horrible crimes that occur within his State. A very wise man, the Savior of the world, said some few thousand years ago, "Why beholdest thou the mote that is in thy brother's eye but perceivest not the beam that is in thine own eye." If there is a lynching in Illinois, and they very frequently occur there, or in Texas, or in Georgia, as they sometimes occur there, the Senator from New Jersey feels the enormity of the crime to such an extent that he would come here and openly say, as he has to-day said, that he is even willing to violate the Constitution of the United States, which he has sworn to uphold, in order to punish those crimes.

Mr. EDGE. Mr. President, I can not permit that statement to go unchallenged. I said nothing of the kind, as I am quite sure an examination of the record of my remarks will demonstrate.

Mr. McKELLAR. The Senator said that he was even willing to wink at the Constitution or trespass upon it or to take it with a grain of allowance when it comes to these lynching crimes in other people's States. As the Senator from North Carolina [Mr. OVERMAN] well reminds me, he said that be-

cause he is not a lawyer, he would be willing to take refuge in his ignorance of the law in order to see if he could not punish such crimes in other States; but we never have heard him say a word, we have never heard a protest, at any time since the remarkable New Brunswick crime that has gone unpunished in his own State. I believe nine-tenths of the people of the United States could put their finger on the murderer this moment and yet the murderer has gone unblushingly unpunished in his own State.

Mr. EDGE. Mr. President—

Mr. McKELLAR. I decline to yield. The Senator was not courteous enough to yield to me a few moments ago and I decline to yield to him now.

The Senator talks about great lawyers on the other side of the Chamber having different opinions on this bill from lawyers on this side of the Chamber. Aside from the Senator in charge of the bill in this body, I want to know what lawyer on the other side of the Chamber says the measure is constitutional?

If there is anyone on the other side of the Chamber who will say it is constitutional, I am going to stop long enough to give him an opportunity to rise in his place and say that he believes it is constitutional. I will wait a little while to give him the opportunity. I am waiting.

Mr. SHORTRIDGE rose.

Mr. McKELLAR. Oh, yes, of course we understand the Senator from California takes that view. We all know that he believes it constitutional. We know that the Senator from California has a very positive view about its constitutionality, and I excepted him from the lawyers on that side of the aisle when I made the proposition. Are there any other lawyers who believe it constitutional?

Mr. SHORTRIDGE. I presume there are.

Mr. McKELLAR. Will the Senator say there are any lawyers on his side of the Chamber besides himself who believe it constitutional?

Mr. SHORTRIDGE. There are greater lawyers than the Senator from Tennessee—

Mr. McKELLAR. I would like to have them rise and say it is constitutional.

Mr. SHORTRIDGE. Who think it is entirely constitutional, and who believe it wise and wholesome legislation.

Mr. McKELLAR. Will the Senator name a lawyer on his side of the Chamber who believes it is constitutional legislation?

Mr. SHORTRIDGE. They will answer for themselves.

Mr. McKELLAR. I wait for the Senator to answer my inquiry.

Mr. SHORTRIDGE. Senators on my side of the Chamber will answer for themselves.

Mr. McKELLAR. The Senator from California was undertaking to answer for them.

Mr. SHORTRIDGE. I know there are lawyers on this side of the Chamber, lawyers learned in the law, who sincerely believe that the proposed legislation is and will be held to be entirely constitutional. I know there are other able lawyers, for whose learning I have unqualified respect, upon the other side of the Chamber who think otherwise. I know that on propositions of this kind, in matters of this nature, honorable men, intellectual men, thoughtful men, may differ; and as for me, no difference of opinion that might exist as between myself, humble as I am, and the Senator, distinguished as he is, would cause me to question the motives of Senators, certainly not affect my regard for them socially or in any other way.

But I beg the Senator's pardon—

Mr. McKELLAR. I am delighted to yield to the Senator.

Mr. SHORTRIDGE. I did not intend to interrupt the Senator in this way or to this extent.

Mr. McKELLAR. Oh, no; I hope the Senator will proceed. I am delighted to yield to him.

Mr. SHORTRIDGE. I think that a dispassionate, careful study of the bill and its different sections, in view of the decisions of our Supreme Court, will convince many Members of this body that it is competent for Congress to enact it; but even so, admitting its constitutionality, there might be reasons advanced which would make the legislation unwise. I can well understand that honorable men who love their States, who love their Government, and who are devoted to both, as I claim to be to both, might, while admitting the constitutionality of the proposed measure, oppose it with earnestness and vigor, and resort to all permissible parliamentary action to defeat the bill. I did not rise to say that much. I do not answer for others, but I have in mind Senators who are members of the Committee on the Judiciary, and from an expression of their views I can not but believe they agree with me that the proposed measure is constitutional.

Mr. McKELLAR. The Senator in his statement has in no place answered my challenge, which is to name lawyers on the Committee on the Judiciary on his side of the Chamber, and representing that side of the Chamber, who believe that the proposed measure is constitutional. I renew the challenge now. If there is any lawyer on that side other than the Senator from California, whose views we all know, who believe that the measure would be constitutional if enacted into law, let him rise in his place and say so now.

Mr. SHORTRIDGE. Will the Senator yield just a moment?

Mr. McKELLAR. Certainly.

Mr. SHORTRIDGE. I think if the Senator from South Dakota [Mr. STERLING] were in his place he would rise and say that he thought it constitutional.

Mr. McKELLAR. Is the Senator from South Dakota the only one?

Mr. SHORTRIDGE. I think there are others, but I am not here to answer for them, nor would it be proper for me to undertake to do so.

Mr. McKELLAR. Is it possible that the Senate is asked to pass a law that is so evidently unconstitutional that there are only two lawyers on the Judiciary Committee of the Senate who are willing to say that it is constitutional or who believe that it is constitutional?

Mr. SHORTRIDGE. I answer that a majority of the Committee on the Judiciary reported the bill favorably; and I undertake to say that there are quite a number of Senators who will answer the question of the Senator from Tennessee [Mr. McKELLAR].

Mr. OVERMAN. Will the Senator from Tennessee yield to me at that point?

Mr. McKELLAR. I wish to say—

Mr. SHORTRIDGE. Let me finish the statement.

Mr. McKELLAR. I challenge any Senator on the other side of the Chamber who is a lawyer and who believes this bill is constitutional to rise up and say so. I should like to hear him do so.

Mr. SHORTRIDGE. If that is a permissible way of carrying on debate, later on I think the Senator will have answers to his question.

Mr. OVERMAN. The Senator from California stated that a majority of the Judiciary Committee reported the pending bill favorably. I should like to ask the Senator if a majority of the Republican members of the committee, including the leading lawyers on the committee, in voting to report the bill did not state that they had grave doubt about the constitutionality of the measure?

Mr. SHORTRIDGE. That may be so.

Mr. OVERMAN. Is it not so?

Mr. SHORTRIDGE. It is as to one or two Senators on the committee, certainly.

Mr. OVERMAN. If I recollect aright, the Senator from California and the Senator from South Dakota [Mr. STERLING], of all the members of that great committee, many of them being present, were the only ones who said that the bill was constitutional, and the Senator from California cited, in support of his opinion that it was constitutional, a dissenting opinion by Justice Harlan of the Supreme Court.

Mr. SHORTRIDGE. Let me first answer the Senator from Tennessee.

Mr. McKELLAR. I yield to the Senator from California to answer me. I should like to have all the light possible on this question. I do not serve on the Judiciary Committee myself, and I am wondering what is sought to be "put over" on those of us who do not believe in the constitutionality of this bill.

Mr. SHORTRIDGE. Is the Senator willing—

Mr. McKELLAR. If the Senator from California will allow me just a moment, I should like to ask him how he can claim that the United States Government can take jurisdiction constitutionally over the crime of murder by lynching when it does not have jurisdiction over the crime of murder, such as was committed recently at New Brunswick, N. J.?

Mr. SHORTRIDGE. I do not think it is timely to enter upon a law lecture in order to teach the Senator from Tennessee some of the fundamental principles of our Government.

Mr. McKELLAR. If I desired such teaching, I certainly would not go to the Senator from California for it; he would be the last Senator in the Chamber to whom I would go.

Mr. SHORTRIDGE. The Senator from Tennessee started off in a method of debate that I do not regard as courteous.

Mr. McKELLAR. The Senator from California should not have made that statement.

Mr. SHORTRIDGE. I will withdraw it if the Senator will amend his reply.

Mr. McKELLAR. The Senator ought to withdraw it. He does himself no credit when he makes such a statement as that.

Mr. SHORTRIDGE. I answer the Senator from Tennessee for the moment by saying—and I have put my thoughts into writing and they are in print—that I think this proposed legislation is constitutional.

Mr. McKELLAR. I started out with that assumption, in so far as the view of the Senator from California is concerned, and so stated specifically.

Mr. SHORTRIDGE. One moment, please. In other words, I think that it is perfectly competent for Congress to enact legislation of this kind. I think that under the provisions of our Constitution where a State, either by affirmative action or by nonaction, and continuous nonaction, denies to any citizen—indeed, any person—within its jurisdiction "the equal protection of the laws," or where by affirmative action, speaking through the legislative department or the executive department or the judicial department, deprives any person, any citizen of the United States, within its jurisdiction of "life, liberty, or property without due process of law," or where, to be brief, by action or by nonaction a State denies to any person within its jurisdiction the equal protection of the laws, then under the fourteenth amendment of the Constitution of our country it is competent for Congress by "appropriate legislation" to give that protection and to prevent that denial. I wish to say further, as to the fifth section of the fourteenth amendment to the Constitution, that it is competent for Congress to adopt the ways and means, to hit upon such legislation as it considers "appropriate legislation," in order to safeguard the rights which are guaranteed by the Constitution itself. I beg to add that there are other provisions of the Constitution upon which I rely for support of my contention that this proposed legislation is constitutional, such, for example, as the fifth amendment and paragraph 10 of section 5 of Article I.

With great respect for the Senator from Tennessee—and I will not, I hope, be forgetful of where I am—speaking as a lawyer, and with due reverence for the Constitution, and having in mind all the decisions upon the fourteenth amendment to the Constitution and the many decisions which have a bearing upon this problem, I say finally and with respect for the Supreme Court of the United States, I think they have emasculated the fourteenth amendment by one, and perhaps by two, of their decisions. I think, however, that the decisions which I have in mind are not controlling and that the features of this bill will be found to be in harmony with the Supreme Court's decisions; and if not in harmony with past decisions, yet this proposed legislation is within the four corners of the letter and the spirit of the fourteenth amendment.

I did not intend to argue the question now, and I have not; I merely answer the Senator in this brief way.

Mr. McKELLAR. Mr. President, I wish to call attention to the fact that we all understood the views of the Senator from California; but it is quite remarkable that if he has those views he has been utterly unable to influence the opinions of any other member of his committee, Democrat or Republican. We understand here from the statement which has just been made by the Senator from North Carolina [Mr. OVERMAN] there are only two members of the committee to whom the idea even suggested itself that the bill is constitutional.

Mr. SHORTRIDGE. Mr. President, I feel warranted in saying that the Senator from Iowa [Mr. CUMMINS] believes the proposed law constitutional.

Mr. OVERMAN. Mr. President, the Senator from Iowa expressed great doubt about the measure and said he voted for it with the understanding that he might vote against it when it came up in the Senate.

Mr. McKELLAR. Of course; and we all know that there is no more authority for passing this proposed law as to murder by lynching than there is for passing a law punishing any other kind of murder.

Mr. SHORTRIDGE. Mr. President, may I ask the Senator a question?

Mr. McKELLAR. Just one moment, and I will yield to the Senator—

Mr. SHORTRIDGE. I merely wish to ask a question.

Mr. McKELLAR. I decline to yield to the Senator now.

Mr. SHORTRIDGE. Very well.

Mr. McKELLAR. We all know that there is no more justification under the Constitution for the passage of this measure, which would punish the crime of murder by lynching, than there would be to pass a law to punish the crime of murder committed in any other way. Is it possible that we are going to do as the Senator from New Jersey [Mr. EDGE] suggests, namely, treat the Constitution as a scrap of paper? I do

not believe Senators generally will do that; certainly the lawyers in this body on either side are not going to do that. The great lawyers on the Judiciary Committee have none of them asserted the constitutionality of this measure or said that, in their belief, if passed it would be constitutional. Most of them hold that it is unconstitutional, and we all know it is unconstitutional. We are treating our Constitution as a scrap of paper when we undertake to push forward this measure.

Mr. CARAWAY. Mr. President, may I interrupt the Senator for just a moment?

Mr. McKELLAR. With pleasure.

Mr. CARAWAY. I was going to ask the Senator if he thought there was really any design in the language of the first section, commencing on line 3, which reads:

That the phrase "mob or riotous assemblage," when used in this act, shall mean an assemblage composed of three or more persons acting in concert for the purpose of depriving any person of his life without authority of law—

Now listen—

as a punishment for or to prevent the commission of some actual or supposed public offense.

Senators will observe that a riot like the one which took place in Illinois could not be reached, nor could one like that which took place in the hop fields of California; they are absolutely exempted; and the only mob which may be touched is one which undertakes to punish a man for the violation of some public law or to prevent such a violation of the law. If it were desired to form a mob to put a man to death for any other purpose, under this bill, of course, it would be entirely lawful.

Mr. McKELLAR. Of course, the Senator understands that it is not the intention of the Senator from California to include California in the measure. His idea is to include occurrences which take place a long distance off in other States.

Mr. SHORTRIDGE. No, Senator; I have expressed my views upon that subject and disavowed any such thought.

Mr. McKELLAR. I decline to yield to the Senator. I will yield to the Senator in a few moments.

Mr. SHORTRIDGE. The Senator must not put such words in my mouth.

Mr. CARAWAY. I say the very language of the bill would make it absolutely impossible for the Federal Government to interfere where a riot had occurred and life had been taken unless the riot or mob sought to accomplish one of two purposes, either to punish a man for a crime or to prevent the commission of a crime.

Mr. McKELLAR. Apparently the Senator from Arkansas is entirely right in that contention. I have not examined the language carefully, but I think that is the purpose in view.

Mr. CARAWAY. If I may be permitted just a word further, the Senator from California—and I have a great liking for him; he is one of the most delightful men I know—gave a reason just a moment ago for thinking that this proposed law might be constitutional, saying in effect that he thought the Supreme Court would reverse itself and agree with him.

Mr. McKELLAR. I wish to say to the Senator from California, then, that he ought to start out by first converting the Republican members of his own committee. I should like for him to do that. If he could get the Republican members of his own committee to agree with him as to the constitutionality of the measure we would have more respect for his views about the Constitution.

Of course, we all know the kindly disposition of the Senator from California. He is a very great friend of the colored man. His purpose is to endeavor to do something for the benefit of this so-called downtrodden race. I wish to say to the Senator that I know a great deal more about the colored race than does he. I was born and reared amongst them; I have a great liking for them; I believe that equal and exact justice ought to be done to them; I would not have an injustice done them; I do not believe in lynching any more than does the Senator from California; I do not believe in illegal executions any more than does the Senator from California; I do not believe in the disregard for any law any more than does the Senator from California; I believe that the laws ought to be upheld; but we can only uphold the laws by standing for the Constitution and for law all along the line. We should stand for the Constitution in this body. We are recreant to our duty when we are willing here to set aside our Constitution for the benefit of some particular or pet measure in which any Senator or Senators may be interested. I believe that if the Senator from California would confer with his colleagues on the committee, listen to what they have to say with an open mind, disregard his love for the colored race, and for a few moments think only

of his duty as a United States Senator to uphold the Constitution of this Republic, he would come nearer withdrawing this bill than he would undertaking to forward its consideration.

Mr. SHORTRIDGE. Mr. President—

Mr. McKELLAR. I yield to the Senator from California.

Mr. SHORTRIDGE. Mr. President, merely to respond to a thought, and it was a good thought, of the Senator from Arkansas [Mr. CARAWAY], it is quite conceivable that the language to which he refers in the bill might well be amended, might well be extended. Months ago my attention was called to that very point, I think by the senior Senator from Tennessee [Mr. SHIELDS].

I merely wished to remark that.

Mr. CARAWAY. Mr. President—

Mr. McKELLAR. I yield.

Mr. CARAWAY. I should like to ask the Senator from California if he would like also to prevent their having an open season for shooting preachers up in New Jersey?

Mr. SHORTRIDGE. I do not like to answer that question, because my father and my grandfather each was a preacher.

Mr. CARAWAY. The Senator does not think they ought to have been shot just because they preached, does he?

Mr. McKELLAR. I want to ask whether the Senator agrees that it was proper some time ago to have murdered a man by the name of William Desmond Taylor in Los Angeles, Calif., the Senator's own State? I take it the Senator does not. The crime has gone unwhipped of justice.

Mr. SHORTRIDGE. Oh, Mr. President, I think this colloquy has fallen below the level which should characterize a debate on such an important subject.

Mr. McKELLAR. The Senator may think that, but I should be glad if he would answer the question. He does not approve of that crime?

Mr. SHORTRIDGE. Why, certainly not.

Mr. McKELLAR. Of course the Senator does not. He owes it to himself to answer that question in that way.

Mr. SHORTRIDGE. Right here, and for the last time, let me say—

Mr. McKELLAR. One other question. The executive authorities of California have not prosecuted the murderer of Mr. Taylor, have they?

Mr. SHORTRIDGE. Yes; they are all in active prosecution. The criminals may not yet have been apprehended.

Mr. McKELLAR. Has not that crime gone unwhipped of justice up to this day?

Mr. SHORTRIDGE. Up to date; yes.

Mr. McKELLAR. Is the Senator willing to include in his bill such crimes as that committed in the case of Mr. Taylor?

Mr. SHORTRIDGE. I am willing to make this law applicable in situations such as this—

Mr. McKELLAR. Just one moment, now. I am asking a question about the Taylor case.

Mr. SHORTRIDGE. That is a question that can not be answered categorically, "Yes" or "No." I answer the Senator that where a man is deprived of his life or his liberty or his property without due process of law, or where he is denied the equal protection of the laws by a State of the Union—be it my own, California, or yours, Tennessee, for which I have an affection—in such a case, where the State is impotent, or where it neglects, fails, or refuses to protect the citizen of the United States and insure to him the equal protection of the laws, there I claim—I may be wrong, Senator—

Mr. McKELLAR. I am quite sure the Senator is.

Mr. SHORTRIDGE. Now, that is not an interruption which I make to gentlemen. I say out of a certain spirit of humility that I may be wrong, but I think the Constitution empowers the Congress, representing the Government, to legislate along the lines of this bill. I think so; and when the time comes I propose to enter into the discussion and make good my views.

Mr. McKELLAR. What time limit would the Senator put on failure to execute the laws?

Mr. SHORTRIDGE. The bill there recites it—where the State refuses, neglects, or fails—

Mr. McKELLAR. For how long?

Mr. SHORTRIDGE. I do not have in mind the language of the bill. I will not undertake—

Mr. McKELLAR. Outside of the bill, then, how long would the Senator think was a reasonable time for the failure of the State authorities to continue before the National Government should step in?

Mr. SHORTRIDGE. That depends always upon each case, the facts and the circumstances surrounding a case. The bill requires an allegation that the State has failed to proceed with due diligence to apprehend and prosecute, and the bill requires proof of that allegation by a preponderance of evidence.

Mr. McKELLAR. What would the Senator call a reasonable time? It is his bill.

Mr. SHORTRIDGE. My answer is that that depends upon each particular circumstance, each particular case.

Mr. McKELLAR. You would have to enumerate them in a law in order to make it effective.

Mr. SHORTRIDGE. No; you would have to enumerate them in the way provided in this bill.

Mr. McKELLAR. Would a year be ample time in the case of the crime of murder?

Mr. SHORTRIDGE. It might be in some cases.

Mr. McKELLAR. It has been more than a year, I believe, since Mr. Taylor was murdered; and the authorities of California have not yet done anything, so far as the public knows, toward punishment for that crime. No one has been arrested for it.

Mr. SHORTRIDGE. One moment.

Mr. McKELLAR. How long will it be before we will go to California, the Senator's own State, for failure to execute the criminal laws of that State?

Mr. SHORTRIDGE. If the Senator will turn to the bill, he will see there must be a failure of the State to make any effort along the line of apprehending and prosecuting. There may have been crimes committed in the Senator's own State 10, 20 years ago, or less. Crimes are committed, unfortunately, in all our States.

Mr. McKELLAR. Yes.

Mr. SHORTRIDGE. But if the Senator will note the language of the bill, and give heed to the plan or framework of the bill, he will find answer to his question. Section 4, as amended, answers your question.

Mr. McKELLAR. The Senator can answer it better than the bill could. We would like to know the purpose of the bill. The cold language of a bill does not always answer a question of that kind. It seems to me that it is a perfectly proper question. Would the failure of a State for one year to execute the law by apprehending the criminal and bringing him to justice justify the United States Government in taking action about it?

Mr. SHORTRIDGE. Again I answer, a definite time can not be fixed as applicable to a suppositive case; it depends upon so many facts and circumstances.

Mr. McKELLAR. Well, I will leave that subject. I want to ask the Senator another question.

Mr. CARAWAY. Mr. President, may I interrupt the Senator?

Mr. McKELLAR. Just one moment, and then I will yield. How does this affect the Japanese in the Senator's State?

Mr. SHORTRIDGE. I do not hesitate to answer. This proposed law has no regard for persons. It would affect all races and all men, whether they be Japanese, whether they be Chinese, Negroes, or any other of the races of men.

Mr. McKELLAR. Would it affect white people at all?

Mr. SHORTRIDGE. Unquestionably it would.

Mr. McKELLAR. It would apply to them?

Mr. SHORTRIDGE. It applies to all men, because, as I understand, all men are equal in America—

Mr. McKELLAR. I disagree with the Senator there, absolutely.

Mr. SHORTRIDGE. All men are free.

Mr. McKELLAR. Does the Senator think that the Japanese and Chinese of California are the equals of the white people of California?

Mr. SHORTRIDGE. In their—

Mr. McKELLAR. I should like to have a categorical answer to that question.

Mr. SHORTRIDGE. I will answer the Senator.

Mr. McKELLAR. The Senator has affirmed here on the floor of the Senate that all men in America are equal. I ask him if the Chinese and the Japanese in his own State are the equals of the white people of his own State?

Mr. SHORTRIDGE. I answer the Senator, if he understands my language—he seems to have a knowledge of language—that all men in America are equal in their rights. They are unequal in their abilities, in their endowments. Some are geniuses, some are fools, but in the way of legal rights—

Mr. McKELLAR. Sometimes I am afraid so.

Mr. SHORTRIDGE. One moment; the Senator forces a categorical answer. I can answer him anywhere, I trust. I will endeavor to do so. I remember the Declaration of Independence. The Senator seems to have forgotten it.

Mr. McKELLAR. No; I have not forgotten it.

Mr. SHORTRIDGE. I remember who wrote it—the great and immortal Jefferson—and I believe in his principles. "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain

inalienable rights, that among these are life, liberty, and the pursuit of happiness." I say that in America all men are born free, and under our Constitution all born under the jurisdiction of the United States are citizens of the United States. I emphasize that this bill is not intended as an encroachment upon the rights of States. It is not intended as an invasion of States. It is not intended to subvert the institutions of any State.

Mr. McKELLAR. Just one moment.

Mr. SHORTRIDGE. It is in cooperation with and in assistance of the States.

Mr. McKELLAR. I am afraid the Senator does not understand the purport of his own bill if he says that this is not an invasion of the rights of the States.

Mr. SHORTRIDGE. I do understand it.

Mr. McKELLAR. After all this, and after the Senator's promise several times to give me a categorical answer as to whether he believes that the Chinese and the Japanese of California are the equals of the white people of California, we note that he has not answered that question.

Mr. SHORTRIDGE. Does the Senator mean racially? Equal racially?

Mr. McKELLAR. I mean just exactly what the Senator said. The Senator understands language.

Mr. SHORTRIDGE. Why, certainly.

Mr. McKELLAR. I am sure he does. I want to know if the Senator believes that the Japanese and the Chinese of his State are the equals of the white people of his State?

Mr. SHORTRIDGE. Under the law of this Republic a child born in California or in Tennessee is a citizen of the United States. Whether that is wise or not, that is the law. Whether intellectually and morally he is equal or not is another question. I am not dealing with that matter now.

Mr. McKELLAR. The Senator certainly has some opinion about it.

Mr. SHORTRIDGE. What does the Senator mean when he asks whether the Chinese or the Japanese is equal to the Caucasian? What does he mean—in legal rights here in America or intellectually?

Mr. McKELLAR. The Senator stated, with a great deal of gusto just now, that in his judgment all men of the United States were equals; that all races and all peoples in the United States were equal. I am asking him a categorical question, and I ask him to answer "yes" or "no," and then make any explanation he may see fit, under the well-known rules of taking evidence, with which he and I have long been familiar. Are the Japanese and the Chinese of the Senator's own State the equals of the white people of that State?

Mr. SHORTRIDGE. May I ask the Senator a question?

Mr. McKELLAR. The Senator can ask me as many questions as he desires. I am not afraid to answer questions.

Mr. SHORTRIDGE. All right. Just let the Senator answer this, and then I will answer his question.

Mr. McKELLAR. Oh, well, if the Senator is going to put a price upon his answer, if his answer is so important that he has to put a price on it, let him put a price on it.

Mr. SHORTRIDGE. When the Senator asks me that question, does he refer to equality of legal rights or to racial equality?

Mr. McKELLAR. I am referring to all of those things that we know in men—in human beings.

Mr. SHORTRIDGE. Ah!

Mr. McKELLAR. Is it a fact—and I challenge the Senator to say so—that the Chinese and Japanese of his State are the equals of the white people of his State?

Mr. SHORTRIDGE. I can answer the Senator if the young gentlemen in the gallery will restrain their laughter.

Mr. McKELLAR. I excuse them for laughing, because they laughed at me a while ago when I unwittingly made an error, and I do not object to their laughter at all.

Mr. SHORTRIDGE. Racially, I do not think the Chinese race or the Japanese race is equal to our branch of the Aryan race of men, though I have in mind some great Chinese. There are three great names that have been mentioned by reverent men; perhaps the Senator will admit that Confucius was a rather great Chinaman.

Mr. McKELLAR. He is dead.

Mr. SHORTRIDGE. One moment, please. The Senator has asked me a question.

Mr. McKELLAR. I beg the Senator's pardon.

Mr. SHORTRIDGE. I do not wish to exalt your race or mine. We belong to the same branch of the human family. I think we are superior in many things. I think I may say that

with deference to the Chinese race and the Japanese race and other races.

Mr. McKELLAR. Would the Senator go so far as to include the colored race in that?

Mr. SHORTRIDGE. I think that is so, though I add that there have been some great and splendid men who were pure negroes. Has the Senator never heard of Toussaint L'Ouverture? I have here a book of poems which do honor to any race, poems written within a few years by colored men of this Nation.

Mr. McKELLAR. Then, as I understand the Senator, he has some doubts about colored men being inferior, like he has some doubts about the constitutionality of this bill.

Mr. SHORTRIDGE. No; what God has made I am not now appraising, if the Senator gets the force of my meaning.

Mr. McKELLAR. I do not know whether the Senator is in partnership or not; but I hope I get his meaning.

Mr. SHORTRIDGE. I am not appraising races of men at this moment, but, as the Senator knows, a Chinese or Japanese born in California or in the Hawaiian Islands is a citizen of the United States. Those who have come here under treaty rights have only those rights which are affirmatively set down in the treaties. There are many Japanese in California who are not equal in rights to native-born Japanese, not equal in legal rights to native white children or native-born negro children, because their rights are limited by the treaties between us and Japan. So that racially I do not think the races are equal, speaking generally. Legally they may be, under certain circumstances, as I have said.

Mr. McKELLAR. Would the Senator take away the legal protection of the laws simply because the Japanese were not citizens of this country?

Mr. SHORTRIDGE. Certainly not. All here under treaty must be protected by our laws, and all born here are citizens under the Constitution.

Mr. McKELLAR. But the Senator is not willing to bring William Desmond Taylor's murderer to justice, under the terms of the statute, because the Commonwealth of California has, for perhaps more than a year now, failed to have that murderer prosecuted.

Mr. CARAWAY. Before the Senator gets away from his statement, California, by its laws, took away the right of Japanese who were not born in America to own lands in California, and it is a serious question whether it was within the treaty power or not. The Japanese denied it. But California denied to the Japanese in California any right under the law to own property.

Mr. SHORTRIDGE. Oh, Senator—

Mr. CARAWAY. Real estate.

Mr. SHORTRIDGE. Agricultural land. The treaty is specific on that.

Mr. CARAWAY. Japan never agreed with you as to what the treaty was.

Mr. SHORTRIDGE. Japan does not permit Americans to occupy such lands, and our treaty specifically limits the character of real property which the Japanese may own in California.

Mr. CARAWAY. The Legislature of California went a long way to deny the Japanese any rights in California they could take away.

Mr. McKELLAR. Inasmuch as the Senator from California is so very greatly interested in the rights of certain people in other States, I want to ask him this question: Does he approve of taking away the rights of Japanese in his own State to own agricultural lands?

Mr. SHORTRIDGE. I certainly stand upon the treaty, and I think it was wise.

Mr. McKELLAR. I am not asking that.

Mr. SHORTRIDGE. I answer the Senator, then, if I get his question, no. But the treaty does not give the right to a Japanese to own land for agricultural purposes, and that is the law.

Mr. McKELLAR. Then, as I understand, the Senator would take away from the Japanese of his State the right to own agricultural land?

Mr. SHORTRIDGE. I would not take away a right which they did not possess.

Mr. McKELLAR. The Senator would prevent them from acquiring the right?

Mr. SHORTRIDGE. I would.

Mr. McKELLAR. And he is in favor of depriving the Japanese of his own State of the rights accorded to all other citizens of that State?

Mr. SHORTRIDGE. Oh, no; I stand upon the treaty. The treaty gives no such rights, and I would not confer them.

Mr. McKELLAR. I understand that the Senator is standing upon the treaty. He is standing upon the treaty, just as some of us, possibly misguided men, are standing upon the Constitution of the United States, because we love it and revere it. We say under it you have no right to legislate on this subject.

Mr. SHORTRIDGE. I respect your views.

Mr. McKELLAR. You say you are willing to deprive a very large portion of the Japanese men and women of your State of the right even to hold land.

Mr. SHORTRIDGE. No, Senator; I would not deprive them of the right. They have no such right.

Mr. McKELLAR. They have been deprived of it.

Mr. SHORTRIDGE. No, no, Senator; they have not.

Mr. McKELLAR. Statutes have been passed in California prohibiting them from buying lands in your State.

Mr. SHORTRIDGE. With respect, the statutes follow the treaty. The treaty gives no such rights, and we have not conferred any such rights, and I would not confer any such rights.

Mr. McKELLAR. If the Senator from California knows anything about the laws of his own State, he must know that the Legislature of California passed a law prohibiting Japanese from thereafter owning any agricultural lands. Up until that time, under your law and under your constitution and under treaties, the Japanese did own agricultural lands, and by this law of your State and your legislature, which you are now upholding, these colored Japanese living in your State, entitled, as you say, to the equal protection of the law, are being deprived of one of the rights of a human being—that is, to own land when he is there—and the Senator understands it.

Mr. SHORTRIDGE. If it becomes necessary a little later, I will explain exactly what the law in California is and what the decision of our courts is. Let us understand one another.

Mr. McKELLAR. I am sure I understand, and if the Senator does not recall it, I will take long enough time to recall the matter to the Senator.

Mr. SHORTRIDGE. If the Senator will excuse me—

Mr. McKELLAR. I will yield to the Senator, of course, but I will call to his attention the fact that I am not going to let him escape it.

Mr. SHORTRIDGE. I do not want to escape anything. When we go at it earnestly and sincerely we will arrive at the truth.

Mr. McKELLAR. We are very sincere, because the Senator has not a ghost of a show of passing his bill; we are not going to let it pass.

Mr. SHORTRIDGE. The record is made; let it be as it is. There is a fundamental proposition of law upon which California has stood, and which I think is sound. An alien here in America, whether he comes from England, or France, or Italy, or Japan, or China, from any land, has just such rights as are guaranteed to him by way of treaty between this country and his. It is a very easy process of reasoning to discover what his rights are. We naturally turn to the treaties. Turning to the treaties and conventions between this country and Japan—and we know why it was so—we find that there is no right given to the Japanese to hold real property or land in California for agricultural purposes. That being so, we are within the treaty when we legislate along that line, as we have.

Mr. McKELLAR. Mr. President, I want to say, for the benefit of the Senator from California, who seems to have forgotten recent history, that instead of the Japanese not being deprived of the right to own agricultural lands in his State, we all recall, I thought everybody recalled, that during the administration of the late President Roosevelt, President Roosevelt undertook, by the use of his friendly offices, to prevent the Legislature of California from depriving the Japanese of the right to hold agricultural lands in this country, and as I recall in the first instance he did prevent it, but later on, during President Wilson's administration, the Legislature of California did pass an act in which they deprived the Japanese of that right, and, by the way, I want to say to the Senator from California that I know something about the Japanese, and I know a great deal about the colored people, and the Japanese are just as worthy of having the rights of human beings as the colored people.

They ought all to be treated alike, and how easy it is for the Senator from California to come here and talk about the rights of colored people in other men's States, when in his own State his own legislature has already deprived a very large population in that State of the fundamental right to own lands in the State, or agricultural lands, to which I believe it is confined now. Why can not the Senator see the injustice that is being done the colored citizens there; and when I speak of colored citizens in California I am speaking of Japanese citizens? Why can he not see the injustice that is being

done the colored Japanese citizens of his own State before he undertakes to come out as the champion of the colored people all over the country? Should not his charity begin at home, where he could have an excellent play for that charity? I want to tell the Senate why the Senator does not do it. The Japanese do not have the right to vote.

Mr. SHORTRIDGE. It is unworthy of the Senator to impute that motive to me, and I resent it.

Mr. McKELLAR. I understand that, but we all know that the Japanese have no right to vote in California. They are not citizens, and they have no right to vote, and the other colored people of California have a right to vote.

Mr. SHORTRIDGE. We have a great many colored men and women in California, and they vote; but that is collateral. But the Senator should not impute to me motives of that kind.

Mr. McKELLAR. I want to suggest to the Senator that he look up the injustice that is done to these colored people in his own State before going out and seeking to have so-called injustices righted in other States.

Mr. President, no man believes more in the enforcement of the law than I do. No man is more opposed to lynching than I am. It ought not to take place. But there are crimes committed in every State, and this crime of lynching is not confined to the people of my section or to the people of any State. Some of the worst lynching crimes that have ever occurred in this country have occurred in States of the North. They are getting to be more prevalent in the North, in comparison to the total population, than in the South. Yet, when we rise here to uphold the Constitution of the United States, and when the Senator can find only 2 on a committee of 17, I believe, who are willing to uphold him, he comes here and wants us to pass a bill that is patently unconstitutional, which ought not to be passed. We should not deprive the States of their rights. We should not take away further rights of the States. We have perhaps gone too far in that direction already.

Mr. President, I am informed that it is now proposed to go into executive session, and with that understanding I will discontinue my remarks.

Mr. CURTIS. I would like to have the Journal approved first. If we can have a vote on the approval of the Journal I will move an executive session.

Mr. UNDERWOOD. Of course, I do not make any agreement about what will be done if we get into executive session, but will the Senator move an adjournment to-night if we should not reach any agreement?

Mr. CURTIS. It is my intention to ask for an adjournment. Of course I do not know what others will do.

Mr. CALDER rose.

Mr. McKELLAR. I do not yield the floor except for the purpose of moving an executive session or an adjournment. If the Senator from New York desires to have me yield to him long enough to present a matter, and it will not interfere with my occupancy of the floor, I am perfectly willing to yield to him.

Mr. CALDER. If I may I wish to report a resolution, and get consideration of it, to defray the funeral expenses of the late Senator WATSON.

Mr. UNDERWOOD. I made the statement that we were not going to transact any business, but of course I am not going to interfere with a matter of that kind. If the Senator wants to have the resolution considered by unanimous consent, let him go ahead with it.

Mr. CALDER. I ask unanimous consent that I may report from the Committee to Audit and Control the Contingent Expenses of the Senate the resolution which I send to the desk.

Mr. McKELLAR. I yield for that purpose with the understanding that it is not to take me off the floor.

Mr. UNDERWOOD. I suppose that can be done by unanimous consent.

Mr. WILLIS. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from Ohio will state his inquiry.

Mr. WILLIS. I wonder whether it is possible to have an arrangement whereby we can adopt a resolution, and yet the Senator from Tennessee retain the floor. There are other Senators who would like to make some observations. The Senator can not retain the floor and the Senate proceed with legislative business. The Senator can yield the floor, but he can not hold the floor and exclude everybody else.

Mr. McKELLAR. I was asked by the Senator from Kansas to yield for an executive session.

Mr. CURTIS. I asked the Senator to yield for an executive session, and if he will do that, and we can approve the Journal, I will move to go into executive session.

Mr. McKELLAR. I will yield to the Senator for that purpose.

Mr. CURTIS. I ask that the Journal be approved.

The VICE PRESIDENT. The question is on the approval of the Journal.

The Journal was approved.

EXECUTIVE SESSION.

Mr. CURTIS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 17 minutes spent in executive session the doors were reopened, and (at 4 o'clock and 17 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, November 29, 1922, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

TUESDAY, November 28, 1922.

The House met at 11 o'clock a. m.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

In token of our need and love, our heavenly Father, we wait in Thy presence. We see Thy mercy more brightly because of our unworthiness. Beholding Thy marvelous condescension, every heart brings its tribute of praise. O bless everyone and let morning arise upon every life. Give us the reach of soul that our standards of service, conduct, and character may receive the benediction of Thy favor. For the wonder of life we bless Thee. For the joys and blessings of our own dear land, we give Thee thanks. In the name of Jesus. Amen.

The Journal of the proceedings of yesterday was read and approved.

WITHDRAWAL OF PAPERS—SARAH F. BUTLER.

Mr. CHALMERS. Mr. Speaker, I ask unanimous consent that the papers pertaining to the pension of Sarah F. Butler, H. R. 8279, Sixty-seventh Congress, no adverse report having been made thereon, be withdrawn from the files of the House for the use of the Pension Department. The bill passed the House but did not pass the Senate. Under a recent ruling I understand that the pension may be granted without special legislation, and we want the use of the files for the Pension Department.

Mr. GARRETT of Tennessee. It is an individual case.

Mr. CHALMERS. Yes.

The SPEAKER. Is there objection?

There was no objection.

THE MERCHANT MARINE.

Mr. GREENE of Massachusetts. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 12817) to amend and supplement the merchant marine act, 1920, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the merchant marine bill, with Mr. TILSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the committee rose an amendment, offered by the gentleman from California [Mr. RAKER], to strike out the section was pending. The question is on agreeing to the amendment.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent to have the amendment again reported.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

There was no objection, and the Clerk read as follows:

Amendment offered by Mr. RAKER: Page 23, line 6, strike out section 304.

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. RAKER. Mr. Chairman, section 304, of course, goes back to sections 301, 302, and 303. As I said last evening, the statement of the proposition in the bill is seductive to those who hear merely the statement without having gone into the facts. The committee has had no hearing upon the matter. The matter was put in—and I accuse no one of any ulterior purpose. I feel, however, that I can advisedly say that when the American people comprehend, and they will shortly do so,

the purport of this attempted legislation, in addition to the other bad features of the ship subsidy bill, they will resent it very much. I feel safe in saying that the rest of the bad features of the bill combined can not equal the evils that are involved in this particular legislation under consideration.

Mr. JOHNSON of Washington. The gentleman says that no hearings were held. The gentleman knows that the House Committee on Immigration gave considerable attention to these features and to substitute features.

Mr. RAKER. I have here just what was said. There were but three hearings. They were executive and the proceedings were not recorded.

Mr. JOHNSON of Washington. Was not Mr. Lasker present?

Mr. RAKER. Mr. Lasker's statement was not taken down. Mr. Lasker came before the committee before this bill was ever dreamed of, and in executive session he told the Committee on Immigration what could be accomplished. I have investigated the facts, and I remember them distinctly. We have the statement of Mr. Henning, we have the statement of the attorney for the department, but not Mr. Lasker's statement before the Committee on Immigration. That was before the shipping bill started. It was intended to get the Committee on Immigration to report out and act upon this piece of vicious, iniquitous legislation, which everyone must admit is contrary to all of the treaties on commerce that we have to-day; and if you want to be fair and bring about an obliteration of the various treaties, why do you not make the same applicable to the importation of goods and abrogate all of the treaties between the United States and all foreign countries in respect to navigation? Why pick out the question of immigration, hoping, intending, thereby to give more labor, cheaper labor, to break down the immigration laws that have taken almost a half century to place on the statute books of this country for the purpose of protecting America. Then you wrap the American flag around you, as did the chairman of the committee when he closed his argument on this question when he said that the immigrants entering and leaving the ports will land on an American boat and will see the Stars and Stripes floating over them, and therefore feel better for having come across to America in an American boat.

Nevertheless, even so, it will help to destroy the country in which we live. There can not be any doubt about that. If you will look into it you will see already the hand intended to break down the immigration laws, because all of the forces and all of the powers behind the ship subsidy will be behind the maintenance of this plan, if by any possibility it can become operative after these various treaties are broken down.

Mr. EDMONDS. Mr. Chairman, will the gentleman yield?

Mr. RAKER. Yes.

Mr. EDMONDS. As one of the men back of the bill I will say that I will not assist in breaking down the immigration laws.

Mr. RAKER. Oh, of course, it is easy to say that; but why have you not presented to the American people just what the facts are; why do you not come out openly and say that this is for the purpose of giving money to the shipping interests by virtue of bringing starving people from Europe to the United States, and having them become a part of this country? We already have over 10,000,000 now that we can not assimilate. Why do you not tell them that you want cheaper labor, and that all of the great organizations of this country are figuring and hoping that this bill will pass, to the end that we may undermine and do away with the strict immigration laws that we have to-day?

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. BANKHEAD. Mr. Chairman, I move to strike out the last word.

Mr. EDMONDS. Mr. Chairman—

The CHAIRMAN. Does the gentleman wish to be recognized in opposition to the amendment?

Mr. EDMONDS. Yes, sir. Mr. Chairman, as I stated last evening, there are two particular sections which are opposed by foreign interests. One was this provision that forced the carrying on American vessels of 50 per cent of whatever immigration might be allowed by Congress. That is all this does. It says we abrogate so much of the treaties that may be in the road and allow American ships to carry their full share of immigration. That is all that it does.

Mr. RAKER. Will the gentleman yield?

Mr. EDMONDS. I will yield; the gentleman yielded to me.

Mr. RAKER. With the provision of the bill in force, it is an inhibition against immigration, namely, 50 per cent can not come in unless in American bottoms. Therefore, it violates all commercial treaties.